

DISTRICT OF COLUMBIA OFFICIAL CODE

2001 Edition

TITLES 29 to 31

Business Organizations

—————
Corporations

—————
Hotels and Lodging Houses

—————
Insurance and Securities
(Chapters 1 to 9)



40th ANNIVERSARY
of
HOME RULE



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DISTRICT OF COLUMBIA

OFFICIAL CODE

2001 EDITION

Containing the Laws, general and permanent in their nature,
relating to or in force in the District of Columbia (Except such
laws as are of application in the General and Permanent
Laws of the United States) as of August 31, 2013.

VOLUME 15

Title 29

Business Organizations

to

Title 31

Insurance and Securities

Chapters 1 to 9



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Foreword to 2013 Replacement Volume 15

LexisNexis is proud to continue its tradition of excellence with its District of Columbia Official Code, 2001 Edition. This 2013 Volume 15 replaces Volume 15 of the 2001 Official Edition and its 2013 Supplement, both of which may now be discarded, recycled, or retained for historical reference. Future supplements will be keyed to this 2013 Volume and not to any of its predecessors.

Title 28, Subtitle I, Articles 1 to 3 continue appear in Volume 13. Volume 14 now contains Title 28, Subtitle I, Articles 4 to 11 (end), and all of Title 28, Subtitle II. Subtitle II of Title 28 formerly appeared in Volume 15; now, Title 28 is contained completely within Volumes 13 and 14.

LexisNexis presents the 2013 republication of the District of Columbia Official Code, 2001 Edition to the D.C. bench and bar and to the citizens of the District of Columbia in a sincere belief that it will prove a material contribution to the orderly and efficient conduct of the government of the District and to the practice of law. LexisNexis is proud to help commemorate the 40th anniversary of Home Rule for the District of Columbia.

The District of Columbia Official Code, 2001 Edition, represents the eighth compilation of the laws of the District of Columbia and reflects an extensive renumbering of the 1981 Edition. Users should consult the historical citations at the end of each statute, and corresponding amendment notes, as guides to legislative currency. Research features such as case annotations, section references, effect of legislation notes, editor's notes, and the comprehensive index have been prepared by LexisNexis. Your set is kept up to date through regular supplementation, free access to the on-line Official Code at <http://www.lexisnexis.com/hottopics/dccode> and the periodic replacement of volumes. All case citations are Shepardized for accuracy and continued relevance. LexisNexis also publishes a District of Columbia Advance Legislative Service (ALS). The ALS gives you the latest session laws as they are passed, along with tables showing you which sections of the Code are affected.

We actively solicit your comments and suggestions. If you have questions or comments about the statutes, or if you have suggestions regarding index improvements, please write to us or call us toll-free at 1-800-833-9844; fax us toll free at 1-800-643-1280; E-mail us at customersupport@bender.com; or visit our website at <http://www.lexisnexis.com>. By providing us with your informed comments, you will be assured of having a working tool which increases in value each year.

PREFACE TO THE 2001 EDITION

The 2001 Edition of the District of Columbia Official Code marks the eighth time that a compilation of the Laws of the District of Columbia has been published by, or under the authority of, the government of the District of Columbia or that of the United States. The District of Columbia Code was first published in 1929; eleven years later, the Second Edition (1940) was published; another eleven years later, the Third Edition (1951); ten years later, the Fourth Edition (1961); six years later, the Fifth Edition (1967); another six years later, the Sixth Edition (1973); and 8 years later, the Seventh Edition (1981) was published. The time between the publication of the Seventh Edition and this Eighth Edition represents the longest period, by almost a decade, that the District of Columbia Code has gone unrevised in its 72 year history.

The District's Charter, which in 1973, established the current tripartite government of the District of Columbia, makes it incumbent upon the legislative branch to publish and codify every act of the Council, as the Council directs, upon becoming law, so that the residents of the District may have ready access to the laws by which they are governed. In 1973, however, the framers of the District's constitution could not have foreseen the incredible technological advances that would occur in the next 25 years nor the impact they would have on the Code.

With the close of the 20th Century the world has witnessed the triumph of the Information Age, the rise of the World Wide Web, and the explosion of word processing and data storage technology. These phenomena have helped make the reproduction of legal text and data a fast, easy, and inexpensive enterprise, giving rise to a plethora of publishing mediums, and have made it a relatively simple task to reproduce existing legal text, including the District of Columbia Code. The rapid rise of the Computer Age has allowed virtually anyone with an ordinary personal computer to reproduce and compile the laws of the District of Columbia.

The laws of the District, however, are fluid, not stagnant, as they are amended several times each year. The quality and accuracy of publications not directed by the Council are beyond its control. The Council can only warrant the Code for which it has authorized publication. Therefore, in order to ensure that the residents of the District may distinguish between the compilation of District laws as produced under the direction of the elected officials of the District of Columbia and those of other persons, we have added the word "Official" to the title of the Code. Also to ensure that the Council never loses the right to publish its own laws, the government of the District of Columbia has retained the copyright to the District of Columbia Official Code.

The codified laws of the District of Columbia are created as a result of legislative action on the part of 13 individuals elected by the residents of the

District of Columbia to enact the laws that govern the District, and by the Congress. Once the legislative process is complete, the Council, through its delegation of authority to its Office of the General Counsel, codifies the laws in the form of this Code. In the process of codification, the Office of the General Counsel interprets any discrepancies in the drafting of the laws using commonly recognized rules of statutory construction. No other entity is authorized by law to make these determinations. As set forth by federal law and recognized by the Courts of the District of Columbia, this Code establishes prima facie evidence of the laws in force in the District of Columbia.¹ It is this continuity of authority, from enactment to codification to judicial review that gives this Code its authenticity and officiality as the content of the laws of the District of Columbia.

The 2001 Edition represents a recodification of the 1981 Edition in that it contains a reorganization of the presentation of the laws, inclusion of some previously omitted legal provisions, and the omission of non-substantive extraneous provisions. The theory behind the recodification is to purify the organization of the Code which over many decades has seen the haphazard mixing of original ("organic") provisions of laws throughout the Code. In the 2001 Edition, we have established a system of codification that follows the legislative drafting principals established over many years in the Council's Office of the General Counsel.

The recodification is not an overhaul of the Code. Although a cleanup of the antiquated, repealed and omitted provisions is long overdue, it is not the province of the Office of the General Counsel to determine which laws should be expunged as obsolete. Such decisions should be left to a working group commissioned by the Council to recommend revisions to the Code. The Office of the General Counsel has simply separated the organic laws into discrete divisions and topical categories. As much as is possible, we have followed a rule that requires that all organic law remain intact: closely following the layout of the originating act. We have retained notes to repealed sections to aid in legal research and preserved the numbering style that was first introduced in the Second Edition. Thanks to the resourcefulness of the publisher and the Council's Office of the General Counsel staff, we have corrected provisions of law erroneously added to, or deleted from, prior editions.

The Code is organized into eight **Divisions** of practical law: government organization; judicial organization; decedent estates; criminal law; business law; education; property; and general laws. Each division is subdivided by subject matter called **Titles**, organic laws, called **Chapters** and **Subchapters**, and finally, individual **Sections** representing the individual sections of organic law. Occasionally, **Subtitles** are used to organize chapters of organic law, **Units** to organize subchapters, and **Parts** and **Subparts** to organize the additional divisions within the organic law. One important change that the user will notice, and hopefully appreciate, is that the District's Charter, the Home Rule Act, is codified in its entirety in one location so that the

1. See 1 U.S.C. § 204(b) (1994); *Sheetz v. District of Columbia*, 629 A.2d 515, 519 (D.C. 1993).

framework of the current District government can be readily found. We hope that the organization of the 2001 Edition of the District of Columbia Official Code will serve as a foundation for further refinement by future law revision commissions or their equivalent.

The 2001 Edition has been prepared under the supervision of Benjamin. F. Bryant, Jr., Codification Counsel, Office of the General Counsel, Council of the District of Columbia.

_____/s/_____

Linda W. Cropp

Chairman

Council of the District of Columbia

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Charlotte Brookins-Hudson

General Counsel

Council of the District of Columbia

USER'S GUIDE

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the District of Columbia Code, a User's Guide has been included in Volume 1 of the Code. This guide contains comments and information on the many features found within the District of Columbia Code intended to increase the usefulness of the Code to the user.

Information about key features of the Code and suggestions for its more effective use are given under the following headings:

- Advance Service
- Analyses
- Applied and Cited Notes
- Case Notes
- Court Rules
- Editor's Notes
- Effect of Amendment Notes
- Historical Citations
- Index
- Miscellaneous Annotations
- Replacement Volumes

If you have a question not addressed by the User's Guide, or comments about your Code service, please call us toll-free at (800) 833-9844, fax us at (800) 643-1280, email us at customer.support@bender.com, or write to: D.C. Code Editor, LexisNexis, 701 E. Water St., Charlottesville, Virginia 22902-5389.

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*Title has been enacted as law.

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TITLE 29. BUSINESS ORGANIZATIONS.

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Subchapter I. General Provisions.

§ 29-101.01. Short titles.

- (a) This title may be cited as the “Business Organizations Code”.
- (b) This chapter may be cited as the “Business Organizations Code General Provisions Act of 2010”.
- (c) Subchapter IV of this chapter may be cited as the “Registered Agent Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — Law 18-378, the “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009”, was introduced in Council and assigned Bill No. 18-500, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

Short title. — Short title: Section 7081 of D.C. Law 19-21 provided that subtitle I of title VII of the act may be cited as “District of Columbia Official Code Title 29 (Business Organizations) Implementation Amendment Act of 2011”.

Delegation of Authority. — Delegation of Authority Pursuant to the “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010”, see Mayor’s Order 2011-178, October 25, 2011 (58 DCR 9412).

Editor’s notes. — D.C. Law 18-378 amended and enacted into law Title 29 of the District of Columbia Official Code. Former Title 29 was recodified as Title 29A, D.C. Code § 29A-101.01 et seq., and was repealed by D.C. Law 18-378, effective January 1, 2012.

Applicability date of D.C. Law 18-378: Section 5 of D.C. Law 18-378, as amended by section 7082 of D.C. Law 19-21, provided: “Sec. 5. Applicability. This act shall apply as of January 1, 2012.”.

CASE NOTES

In general.

Judicial notice was taken of fact that corporation which was incorporated prior to effective

date of current corporation statute had surrendered its prior charter and was reincorporated under current corporation statute, which con-

trolled issue of whether an insolvent corporation should pay for shares of its own stock purchased when it was solvent. D.C. Code 1981, §§ 29-101 to 29-399.50. *Reiner v. Washington Plate Glass Co.*, 711 F.2d 414, 1983 U.S. App. LEXIS 25629 (C.A.D.C. 1983).

Taxi owners' association was not an "association" within District of Columbia statute governing procedures for expulsion of members

from cooperative associations, where the association was organized under the laws of Delaware as a nonprofit corporation and was registered to conduct business in District under the Business Corporation Act. D.C. Code 1981, §§ 29-301 et seq., 29-1101, 29-1140, 29-1141. *Mazanderan v. Independent Taxi Owners' Asso.*, 700 F. Supp. 588, 1988 U.S. Dist. LEXIS 14381 (1988).

§ 29-101.02. Definitions.

Except as otherwise provided in definitions of the same terms in other chapters of this title, for the purposes of this title, the term:

(1) "Biennial report" means the report required by § 29-102.11.

(2) "Business corporation" means:

(A) A domestic business corporation incorporated under or subject to Chapter 3 of this title; or

(B) A foreign business corporation.

(3) "Business trust" means a trust formed under the statutory law of another state which is not a foreign statutory trust and does not have a predominately donative purpose.

(4) "Commercial registered agent" means a person listed under § 29-104.05.

(5) "Common-law business trust" means a common-law trust that does not have a predominately donative purpose.

(6) "Debtor in bankruptcy" means a person that is the subject of:

(A) An order for relief under Title 11 of the United States Code or a comparable order under a successor statute of general application; or

(B) A comparable order under federal, state, or foreign law governing insolvency.

(7) "Distributional interest" means the right under an unincorporated entity's organic law and organic rules to receive distributions from the entity.

(8) "Domestic"[,] with respect to an entity, means governed as to its internal affairs by the law of the District or created under the provisions of a special act of congress unless otherwise noted under its Congressional Charter.

(9) "Effective date", when referring to a record filed by the Mayor, means the time and date determined in accordance with § 29-102.03.

(10)(A) "Entity" means:

(i) A business corporation;

(ii) A nonprofit corporation;

(iii) A general partnership, including a limited liability partnership;

(iv) A limited partnership, including a limited liability limited partnership;

(v) A limited liability company;

(vi) A general cooperative association;

(vii) A limited cooperative association;

(viii) An unincorporated nonprofit association;

(ix) A statutory trust, business trust, or common-law business trust;

or

(x) Any other person that has a legal existence separate from any interest holder of that person or that has the power to acquire an interest in real property in its own name.

(B) The term “entity” does not include:

(i) An individual;

(ii) A testamentary or inter vivos trust with a predominantly donative purpose, or a charitable trust;

(iii) An association or relationship that is not a partnership under the rules set forth in § 29-602.02(c) or a similar provision of the law of another jurisdiction;

(iv) A decedent’s estate; or

(v) A government or a governmental subdivision, agency, or instrumentality.

(11) “Entity filing” means a record delivered for filing to the Mayor pursuant to this title.

(12) “Filed record” means a record filed by the Mayor pursuant to this title.

(13) “Filing entity” means an entity that is formed by filing a public organic record. The term does not include a limited liability partnership.

(14) “Foreign”, with respect to an entity, means an entity governed as to its internal affairs by the law of a jurisdiction other than the District.

(15) “General cooperative association” means a domestic general cooperative association formed under or subject to Chapter 9 of this title or a foreign general cooperative association.

(16) “General partnership” means a domestic general partnership formed under or subject to Chapter 6 of this title or a foreign general partnership. The term “general partnership” includes a limited liability partnership.

(17) “Governance interest” means a right under the organic law or organic rules of an unincorporated entity, other than as a governor, agent, assignee, or proxy, to:

(A) Receive or demand access to information concerning, or the books and records of, the entity;

(B) Vote for the election of the governors of the entity; or

(C) Receive notice of or vote on issues involving the internal affairs of the entity.

(18) “Governor” means a:

(A) Director of a business corporation;

(B) Director or trustee of a nonprofit corporation;

(C) General partner of a general partnership;

(D) General partner of a limited partnership;

(E) Manager of a manager-managed limited liability company;

(F) Member of a member-managed limited liability company;

(G) Director of a general cooperative association;

(H) Director of a limited cooperative association;

(I) Manager of an unincorporated nonprofit association;

(J) Trustee of a statutory trust, business trust, or common-law business trust; or

(K) Any other person under whose authority the powers of an entity are exercised and under whose direction the activities and affairs of the entity are managed pursuant to the entity's organic law and organic rules.

(19) "Interest" means a:

- (A) Share in a business corporation;
- (B) Membership in a nonprofit corporation;
- (C) Partnership interest in a general partnership;
- (D) Partnership interest in a limited partnership;
- (E) Membership interest in a limited liability company;
- (F) Share in a general cooperative association;
- (G) Member's interest in a limited cooperative association;
- (H) Membership in an unincorporated nonprofit association;
- (I) Beneficial interest in a statutory trust, business trust, or common law business trust; or

(J) Governance interest or distributional interest in any other type of unincorporated entity.

(20) "Interest holder" means:

- (A) A shareholder of a business corporation;
- (B) A member of a nonprofit corporation;
- (C) A general partner of a general partnership;
- (D) A general partner of a limited partnership;
- (E) A limited partner of a limited partnership;
- (F) A member of a limited liability company;
- (G) A shareholder of a general cooperative association;
- (H) A member of a limited cooperative association;
- (I) A member of an unincorporated nonprofit association;
- (J) A beneficiary or beneficial owner of a statutory trust, business trust, or common law business trust; or

(K) Any other direct holder of an interest.

(21) "Jurisdiction", used to refer to a political entity, means the United States, a state, a foreign country, or a political subdivision of a foreign country.

(22) "Jurisdiction of formation" means the jurisdiction whose law includes the organic law of an entity.

(23) "Limited cooperative association" means a domestic limited cooperative association formed under or subject to Chapter 10 of this title or a foreign limited cooperative association.

(24) "Limited liability company" means a domestic limited liability company formed under or subject to Chapter 8 of this title or a foreign limited liability company.

(25) "Limited liability limited partnership" means a domestic limited liability limited partnership formed under or subject to Chapter 7 of this title or a foreign limited liability limited partnership.

(26) "Limited liability partnership" means a domestic limited liability partnership that has a statement of qualification in effect under Chapter 6 of this title or a foreign limited liability partnership.

(27) "Limited partnership" means a domestic limited partnership formed under or subject to Chapter 7 of this title or a foreign limited partnership. The term includes a limited liability limited partnership.

(28) “Noncommercial registered agent” means a person that is not a commercial registered agent and is:

(A) An individual or domestic or foreign entity that serves in the District as the registered agent of an entity;

(B) An individual who holds the office or other position in an entity who is designated as the registered agent pursuant to § 29-104.04(a)(2)(B); or

(C) A member in good standing of the District of Columbia Bar who maintains an office in the District of Columbia.

(29) “Nonfiling entity” means an entity that is formed other than by filing a public organic record.

(30) “Nonprofit corporation” means a domestic nonprofit corporation incorporated under or subject to Chapter 4 of this title or a foreign nonprofit corporation.

(31) “Nonregistered foreign entity” means a foreign entity that is not registered to do business in the District pursuant to a statement of registration filed by the Mayor.

(32) “Organic law” means the law of an entity’s jurisdiction of formation which governs the internal affairs of the entity.

(33) “Organic rules” means the public organic record and private organic rules of an entity.

(34) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal entity.

(35) “Principal office” means the principal executive office of an entity, whether or not the office is located in the District.

(36) “Private organic rules” means the rules, whether or not in a record, that govern the internal affairs of an entity, are binding on all of its interest holders, and are not part of its public organic record, if any. The term “private organic rules” shall include:

(A) Bylaws of a business corporation;

(B) Bylaws of a nonprofit corporation;

(C) Partnership agreement of a general partnership;

(D) Partnership agreement of a limited partnership;

(E) Operating agreement of a limited liability company;

(F) Bylaws of a general cooperative association;

(G) Bylaws of a limited cooperative association;

(H) Governing principles of an unincorporated nonprofit association;

and

(I) Trust instrument of a statutory trust or similar rules of a business trust, or common-law business trust.

(37) “Proceeding” includes a civil action, arbitration, mediation, administrative proceeding, criminal prosecution, and investigatory action.

(38) “Professional limited liability company” means a limited liability company organized under Chapter 8 of this title solely for the purpose of rendering professional services through its members, managers, employees, or agents.

(39) “Property” means all property, whether real, personal, or mixed, or tangible or intangible, or any right or interest therein.

(40) "Public organic record" means a record the filing of which by the Mayor is required to form an entity and any amendment to or restatement of that record. The term "public organic record" shall include the:

- (A) Articles of incorporation of a business corporation;
- (B) Articles of incorporation of a nonprofit corporation;
- (C) Certificate of limited partnership of a limited partnership;
- (D) Certificate of organization of a limited liability company;
- (E) Articles of incorporation of a general cooperative association;
- (F) Articles of organization of a limited cooperative association; and
- (G) Certificate of trust of a statutory trust or a similar record of a business trust or common-law business trust.

(41) "Receipt" or "receive", as used in this chapter, means actual receipt.

(42) "Record", used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(43) "Registered agent" means an agent of an entity which is authorized to receive service of any process, notice, or demand required or permitted by law to be served on the entity. The term "registered agent" includes a commercial registered agent and a noncommercial registered agent.

(44) "Registered foreign entity" means a foreign entity that is registered to do business in the District pursuant to a statement of registration filed by the Mayor.

(45) "Sign" means, with present intent to authenticate or adopt a record to:

- (A) Execute or adopt a tangible symbol; or
- (B) Attach to or logically associate with the record an electronic symbol, sound, or process.

(46) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(47) "Statutory trust" means a domestic statutory trust formed under or subject to Chapter 12 of this title or a trust formed under a statute of a jurisdiction other than the District which would be a statutory trust if formed under the law of the District.

(48) "Superior Court" means the Superior Court of the District of Columbia.

(49) "Transfer" includes an assignment, conveyance, sale, lease, or encumbrance, including a mortgage or security interest, a gift, or a transfer by operation of law.

(50) "Type of entity" means a generic form of entity:

- (A) Recognized at common law; or
- (B) Formed under an organic law, whether or not some entities formed under that organic law are subject to provisions of that law that create different categories of the form of entity.

(51) "Unincorporated nonprofit association" means a domestic unincorporated nonprofit association formed under or subject to Chapter 11 of this title or a nonprofit association formed under the law of a jurisdiction other than the

District which would be an unincorporated nonprofit association if formed under the law of the District.

(52) “Written” means inscribed on a tangible medium. “Writing” has a corresponding meaning.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(2), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council

and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-101.03. Applicability of chapter.

This chapter shall apply to an entity formed under or subject to this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-101.04. Delivery of record.

(a) Except as otherwise provided in this title, permissible means of delivery of a record include delivery by hand, mail by the United States Postal Service, commercial delivery service, and electronic transmission.

(b) Delivery to the Mayor shall be effective only when the record is received by the Mayor.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-101.05. Rules and procedures.

The Mayor may adopt rules in accordance with the subchapter I of Chapter 5 and may prescribe procedures not required to be adopted as rules which are reasonably necessary to perform the duties required of the Mayor under this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-101.06. Civil fines for violations of title.

(a) The Mayor, pursuant to rules adopted in accordance with subchapter I of Chapter 5 of Title 2, may impose civil fines and penalties pursuant to Chapter 18 of Title 2, on any person who:

(1) Signs any filing pursuant to this title knowing it to contain a material misstatement of fact;

(2) Does business in the District of Columbia and:

(A) If a domestic business corporation or professional corporation, does not have articles of incorporation filed under § 29-302.02;

(B) If a domestic nonprofit corporation, does not have articles of incorporation filed under § 29-402.02;

(C) If a domestic limited partnership, does not have a certificate of limited partnership filed under § 29-702.01;

(D) If a domestic limited liability company, does not have a certificate of organization filed under § 29-802.01;

(E) If a domestic general cooperative association, does not have articles of incorporation filed under § 29-906;

(F) If a domestic limited cooperative association, does not have articles of organization filed under § 29-1003.02; or

(G) If a domestic statutory trust, does not have a certificate of trust filed under § 29-1202.01;

(3) If a domestic entity of a type described in paragraph (2) of this subsection, does business in the District of Columbia after it has been dissolved, whether voluntarily, judicially, or administratively, unless the dissolution has been revoked or the entity has been reinstated in accordance with this title;

(4) If a foreign filing entity, does business in the District of Columbia:

(A) Without having obtained a certificate of registration under § 29-105.02; or

(B) After its certificate of registration has been terminated under § 29-105.11; or

(5) Fails to designate and maintain a registered agent as required by this title.

(b) Civil fines, penalties, and fees imposed by the Mayor under subsection (a) of this section shall be adjudicated pursuant to subchapter I of Chapter 18 of Title 2[.]

(c) The rules proposed pursuant to subsection (a) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed disapproved.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(3), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “designate” for “appoint” in (a)(5).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Lease.

Trial court erred in awarding a landlord attorney's fees under former D.C. Code § 29-101.139, concerning the unauthorized assumption of corporate powers. The landlord's own argument that the lease was void ab initio

judicially and equitably estopped it from enforcing a provision of the lease and from asserting the inconsistent position that there was liability for obligations arising under the lease. *Brown v. M Street Five, LLC*, 56 A.3d 765, 2012 D.C. App. LEXIS 618 (2012).

Subchapter II. Filing.

§ 29-102.01. Entity filing requirements.

(a) To be filed by the Mayor pursuant to this title, an entity filing shall be received by the office of the Mayor, and shall comply with this title, and satisfy the following:

(1) The entity filing shall be required or permitted by this title.

(2) The entity filing shall be physically delivered in written form unless and to the extent the Mayor permits electronic delivery of entity filings in other than written form.

(3) The words in the entity filing shall be in English and numbers shall be in Arabic or Roman numerals, but the name of the entity need not be in English if written in English letters or Arabic or Roman numerals.

(4) The entity filing shall be signed by or on behalf of a person authorized or required under this title to sign the filing.

(5) The entity filing shall state the name and capacity, if any, of each individual who signed it, either by or on behalf of the person authorized or required to sign the filing, but need not contain a seal, attestation, acknowledgment, or verification.

(b) If a law other than this title prohibits the disclosure by the Mayor of information contained in an entity filing, the Mayor shall accept the filing if it otherwise complies with this title, but the Mayor may redact the information.

(c) When an entity filing is delivered to the Mayor for filing, any fee required under this chapter and any fee, tax, or penalty required to be paid under this title or law other than this title shall be paid in a manner permitted by the Mayor or by that law.

(d) The Mayor may require that an entity filing delivered in written form be accompanied by an identical or conformed copy.

(e) Any record filed under this title may be signed by an agent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(4), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1004.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “or

on behalf of a person authorized or required” for “an individual authorized” in (a)(4); and “each individual who signed it, either by or on behalf of the person authorized or required to sign the

filing” for “the individual who signed it” in (a)(5); substituted “title” for “section” in (b); and added (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.02. Forms.

(a) The Mayor may provide forms for entity filings required or permitted to be made by this title, but, except as otherwise provided in subsection (b) or (c) of this section, their use shall not be required.

(b) The Mayor may require that a cover sheet for an entity filing and a biennial report be on forms prescribed by the Mayor.

(c) The Mayor may require that any filing by a foreign entity under this title be on a form prescribed by the Mayor.

(d) The Mayor, by rule, may authorize, but not require, any filing required or permitted by this title to be filed by electronic means and may prescribe forms and procedures for the electronic filings.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-102.03. Effective time and date.

Except as otherwise provided in this title and subject to § 29-102.05(d), an entity filing shall be effective:

(1) On the date and at the time of its filing by the Mayor as provided in § 29-102.06;

(2) On the date of filing and at the time specified in the entity filing as its effective time, if later than the time under paragraph (1) of this section;

(3) If permitted by this title, at a specified delayed effective time and date, which shall not be more than 90 days after the date of filing; or

(4) If a delayed effective date as permitted by this title is specified, but no time is specified, at 12:01 a.m. on the date specified, which may not be more than 90 days after the date of filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(5), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.02, § 29-307.03, § 29-307.04, § 29-309.06, § 29-407.04, § 29-409.06, § 29-609.05, § 29-702.02, § 29-801.02, § 29-1003.02, § 29-1004.07, § 29-1015.05, § 29-1207.04, and § 29-1208.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “this title” for “§ 29-102.04” and “§ 29-

102.05(d)” for “§ 29 102.05(c)” in the introductory language; and added “which may not be more than 90 days after the date of filing” at the end of (4).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.04. Withdrawal of filed record before effectiveness.

(a) The parties to a filed record may withdraw the record before it takes effect.

(b) To withdraw a filed record, the parties to the record shall deliver to the Mayor for filing a statement of withdrawal.

(c) A statement of withdrawal shall:

(1) Except as otherwise agreed by the parties, be signed on behalf of each party that signed the filed record being withdrawn;

(2) Identify the filed record to be withdrawn, the date of its filing, and the parties to it; and

(3) If not filed by all parties, state that the filed record has been withdrawn in accordance with the agreement of the parties.

(d) Upon filing by the Mayor of a statement of withdrawal, the action or transaction evidenced by the original filed record shall not take effect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(6), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.12, § 29-608.12, § 29-708.10, and § 29-807.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Upon filing by" for "On the delivery for filing to" in (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.05. Correcting filed record.

(a) A person on whose behalf a filed record was delivered to the Mayor for filing may correct the record if the:

(1) Record at the time of filing contained an inaccuracy;

(2) Record was defectively signed; or

(3) Electronic transmission of the record to the Mayor was defective.

(b) To correct a filed record, the parties to the record shall deliver to the Mayor a statement of correction.

(c) A statement of correction shall:

(1) Not state a delayed effective date;

(2) Be signed by the person correcting the filed record;

(3) Identify the filed record to be corrected or have attached a copy and state the date of its filing;

(4) Specify the inaccuracy or defect to be corrected; and

(5) Correct the inaccuracy or defect.

(d) A statement of correction shall be effective as of the effective date of the filed record that it corrects except as to persons relying on the uncorrected filed

record and adversely affected by the correction. As to those persons, the statement of correction shall be effective when filed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(7), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.03, § 29-102.12, § 29-601.11, § 29-608.12, § 29-702.02, § 29-702.06, § 29-802.02, § 29-802.05, § 29-807.06, § 29-1012.13, § 29-1202.02, and § 29-1202.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “by” for “on behalf of” in (c)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.06. Duty of Mayor to file; review of refusal to file.

(a) The Mayor shall file an entity filing delivered to the Mayor for filing which satisfies this title. The duty of the Mayor under this section is ministerial.

(b) When the Mayor files an entity filing, the Mayor shall record it as filed on the date and at the time of its delivery. After filing an entity filing, the Mayor shall deliver to the person that submitted the filing a copy of the filing with an acknowledgment of the date and time of filing.

(c) If the Mayor refuses to file an entity filing, the Mayor shall return the entity filing or notify the person that submitted the filing not later than 15 business days after the filing is delivered, together with a brief explanation in a record of the reason for the refusal. If an entity files a corrected entity filing within 60 days of the date the document was initially rejected for filing, it shall not be required to pay a filing fee. If the entity files a corrected entity filing after that date, it shall be required to pay the applicable filing fee.

(d) If the Mayor refuses to file an entity filing, the person that submitted the filing may seek review of the refusal by the Superior Court under the following procedures:

(1) The review proceeding shall be commenced by petitioning the court to compel filing of the filing and by attaching to the petition the filing and the explanation of the Mayor of the refusal to file.

(2) The court may summarily order the Mayor to file the filing or take other action the court considers appropriate.

(3) The final decision of the court may be appealed as in other civil proceedings.

(e) The filing of or refusal to file an entity filing shall not:

(1) Affect the validity or invalidity of the filing in whole or in part;

(2) Affect the correctness or incorrectness of information contained in the filing; or

(3) Create a presumption that the filing is valid or invalid or that information contained in the filing is correct or incorrect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(8), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “this title” for “§ 29-102.01” in (a); and in (b) substituted “at the time” for “time” and “person that submitted the filing” for “domestic or foreign entity or its representative”.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.07. Evidentiary effect of copy of filed record.

A certification from the Mayor accompanying a copy of a filed record shall be conclusive evidence that the copy is an accurate representation of the original record on file with the Mayor.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

In prosecution for keeping a bawdy or disorderly house copy of annual report of corporate owner of premises as filed with a recorder of deeds listing defendant as president, treasurer and one of the directors of corporation was properly admitted over objection that record

was not properly authenticated before admission and that the record was out of date, since it was obvious that the report was the most recent one on file and it was the burden of defendant to rebut evidence of ownership adduced. *Raleigh v. United States*, 351 A.2d 510, 1976 D.C. App. LEXIS 471 (1976).

§ 29-102.08. Certificate of good standing or registration.

(a) On request of any person, the Mayor shall issue a certificate of good standing for a domestic filing entity or a certificate of registration for a registered foreign entity.

(b) A certificate under subsection (a) of this section shall state:

(1) The domestic filing entity’s name or the registered foreign entity’s name used in the District;

(2) In the case of a domestic filing entity:

(A) That its public organic record has been filed and has taken effect;

(B) The date the public organic record became effective; and

(C) The period of the entity’s duration if the records of the Mayor reflect that its period of duration is less than perpetual;

(3) In the case of a registered foreign entity, that it is registered to do business in the District;

(4) That all fees and penalties owed to the District for entity filings collected through the Mayor have been paid if:

(A) Payment is reflected in the records of the Mayor; and

(B) Nonpayment affects the good standing or registration of the domestic or foreign entity;

(5) That the entity’s most recent biennial report required by § 29-102.11 has been delivered for filing to the Mayor;

(6) That the records of the Mayor do not reflect that the entity has been dissolved; and

(7) That a dissolution proceeding under § 29-106.02 is not pending.

(c) Subject to any qualification stated in the certificate, a certificate issued by the Mayor under subsection (a) of this section may be relied upon as conclusive evidence that the domestic filing entity is in existence or the registered foreign entity is registered to do business in the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(9), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.09. Signing of entity filing.

(a) Signing an entity filing shall be an affirmation under the penalties for making false statements that the facts stated in the filing are true in all material respects.

(b) Whenever this title requires a particular individual to sign an entity filing and the individual is deceased or incompetent, the filing may be signed by a personal representative of the individual on behalf of the individual.

(c) A person that signs a record as an agent or legal representative thereby affirms as a fact that the person is authorized to sign the record.

(d) If a person required by this title to sign or deliver a record to the Mayor for filing under this title does not do so, any other person that is aggrieved may petition the Superior Court to order:

- (1) The person to sign the record;
- (2) The person to deliver the record to the Mayor for filing; or
- (3) The Mayor to file the record unsigned.

(e) If the petitioner under subsection (d) of this section is not the entity to which the record pertains, the petitioner shall make the entity a party to the action.

(f) A record filed under subsection (d)(3) of this section is effective without being signed.

(g) If a record delivered to the Mayor for filing under this title and filed by the Mayor contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the record or caused another to sign it on the person's behalf and knew at the time the record was signed that the information was inaccurate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(10), 59 DCR 13171.)

Section references. — This section is referenced in § 29-104.04 and § 29-104.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "of

entity filing” for “constitutes affirmation” in the section heading; added the (a) designation; and added (b) through (g).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.10. Delivery by Mayor.

Except as otherwise provided by § 29-106.02 or by law other than this title, the Mayor may deliver any record to a person by delivering it to the person that submitted it, to the address of the person’s registered agent, to the principal office address of the person, or to another address the person provides to the Mayor for delivery, or by delivering the record or notice by means of electronic transmission.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(11), 59 DCR 13171.)

Section references. — This section is referenced in § 29-610.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “or by delivering the record or notice by means of electronic transmission delivery.”

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-102.11. Biennial report for Mayor.

(a) Each domestic filing entity and limited liability partnership and registered foreign entity shall deliver to the Mayor for filing a biennial report that sets forth:

- (1) The name of the entity and its jurisdiction of formation;
- (2) The name and street and mailing address of the entity’s registered agent in the District;
- (3) The street and mailing address of the entity’s principal office;
- (4) The name of at least one governor; and
- (5) In the case of a registered foreign entity, a statement that the entity is in good standing in its state of formation or, if the entity is not in good standing, a description of the efforts of the entity to bring itself into good standing.

(b) Information in the biennial report shall be current as of the date the report is signed on behalf of the entity.

(c) The 1st biennial report shall be delivered to the Mayor for filing by April 1 of the year following the calendar year in which the public organic record of the domestic filing entity became effective, the statement of qualification of a domestic limited liability partnership became effective, or the foreign filing entity registered to do business in the District. Subsequent biennial reports shall be delivered to the Mayor by April 1st of each 2nd calendar year thereafter.

(d) If a biennial report does not contain the information required by this

subchapter, the Mayor promptly shall notify the reporting domestic or registered foreign entity in a record and return the report for correction.

(e) If a filed biennial report contains the name or address of a registered agent which differs from the information shown in the records of the Mayor immediately before the filing, the differing information in the biennial report shall be considered a statement of change under § 29-104.07, 29-104.08, or 29-104.09.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(12), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.02, § 29-102.08, § 29-107.01, § 29-301.04, § 29-313.01, § 29-401.04, § 29-413.01, § 29-701.10, § 29-802.02, § 29-802.06, and § 29-1304.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered” for “qualified” throughout (a) and in (d); and substituted “public organic record of the domestic filing entity became effective, the statement of qualification of a domestic limited

liability partnership became effective,” for “domestic filing entity was formed” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Office in District.

The Business Corporation Act of District of Columbia, considered in its entirety, contemplates that principal place of business of a corporation may be outside the District after organization in the sense of creation, and there was no intention to make the proviso that “no corporation may be organized” under the Act

“unless the place where it conducts its principal business is located within the District of Columbia” a continuing regulation. D.C. Code 1951, §§ 29-903, 29-904(j), 29-907(a, b), 29-920(a), 29-921a, 29-931, 29-932, 29-952a. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

§ 29-102.12. Fees.

(a) The Mayor, pursuant to Chapter 5 of Title 2, shall adopt rules, to establish or revise fees for entity filings authorized to be delivered to the Mayor for filing under this title and for copying and certifying a copy of any entity filing under this title.

(b) There shall be no fee for filing a registered agent’s statement of resignation.

(c) The withdrawal under § 29-102.04 of a filed record before it is effective or the correction of a filed record under § 29-102.05 shall not entitle the person on whose behalf the record was filed to a refund of the filing fee.

(d) The rules proposed pursuant to subsection (a) of this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve the proposed rules, in whole or in part, by resolution within this 45-day review period, the proposed rules shall be deemed approved.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; May 1, 2013, D.C. Law 19-305, § 2(d), 60 DCR 2735.)

Section references. — This section is referenced in § 29-102.13.

Effect of amendments. — The 2013 amendment by D.C. Law 19-305 substituted “deemed approved” for “deemed disapproved” in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-305. — Law

19-305, the “Benefit Corporation Act of 2012,” was introduced in Council and assigned Bill No. 19-584. The Bill was adopted on first and second readings on December 4, 2012, and December 18, 2012, respectively. Signed by the Mayor on February 11, 2013, it was assigned Act No. 19-672 and transmitted to Congress for its review. D.C. Law 19-305 became effective on May 1, 2013.

§ 29-102.13. Establishment of Corporate Recordation Fund; disposition of entity filing fees.

(a) There is established the Corporate Recordation Fund (“Fund”), which shall be classified as a proprietary fund and a type of enterprise fund for the purposes of § 47-373(1). The Fund shall be credited with all fees:

(1) That are identified in § 29-102.12 that are collected for Chapters 10, 12, and 13;

(2) That are identified as expedited fees and the fees collected for the enforcement of Chapters 10, 12, and 13; and

(3) Collected for the processing of corporate filings, including renewals, fines, and option service fees.

(b) Revenue credited to the Fund shall be expended by the Department of Consumer and Regulatory Affairs as designated by an appropriations act of Congress for the purposes of maintaining and upgrading the corporate filing system, including copying fees, automation upgrades, personnel costs, and supplies.

(c) Fees and charges payable to the Mayor shall be paid at the time of presenting a document for filing or making a request for information for which a fee or charge is payable.

(d) Overpayments and duplicate and erroneous payments shall be refunded. A mere change of purpose after the payment of money, as when a party desires to withdraw a filing, shall not entitle a party to a refund.

(e) Except noted under subsection (d) of this section, all other fees shall be deemed processing fees and shall be nonrefundable.

(f) The Mayor may cancel a processed filing due to nonpayment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; May 1, 2013, D.C. Law 19-305, § 2(c), 60 DCR 2735.)

Section references. — This section is referenced in § 47-2855.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-305 substituted “10, 12, and 13” for “10 and 12” in (a)(1) and (a)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-305. — See note to § 29-102.12.

*Subchapter III. Name of Entity.***§ 29-103.01. Permitted names.**

(a) Except as otherwise provided in subsections (b) and (d) of this section, the name of a domestic entity, and the name under which a foreign filing entity or foreign limited liability partnership may register to do business in the District, shall be distinguishable on the records of the Mayor from any:

- (1) Name of another domestic filing entity or limited liability partnership;
- (2) Name of a foreign entity that is registered to do business in the District under subchapter V of this chapter;
- (3) Name that is reserved under § 29-103.03;
- (4) Name that is registered under § 29-103.04; or
- (5) Assumed name registered under subchapter I-C of Chapter 28 of Title 47.

(b) An entity may consent in a record to the use of its name by another registered entity, but the consenting entity must, in a form satisfactory to the Mayor, change its name so that it is distinguishable from any name in any category of names in subsection (a) of this section.

(c) Except as otherwise provided in subsection (d) of this section, in determining whether a name is the same as or not distinguishable on the records of the Mayor from the name of another entity, words, phrases, or abbreviations indicating the type of entity, such as “corporation”, “corp.”, “incorporated”, “Inc.”, “professional corporation”, “PC”, “professional association”, “PA”, “Limited”, “Ltd.”, “limited partnership”, “LP”, “limited liability partnership”, “LLP”, “registered limited liability partnership”, “RLLP”, “limited liability limited partnership”, “LLLLP”, “registered limited liability limited partnership”, “RLLLLP”, “limited liability company”, or “LLC”, shall not be taken into account.

(d) An entity may consent in a record to the use of a name that is not distinguishable on the records of the Mayor from its name except for the addition of a word, phrase, or abbreviation indicating the type of entity described in subsection (c) of this section. In such a case, the entity need not change its name pursuant to subsection (b) of this section.

(e) An entity name shall not contain the words “bank”, “banking”, “credit union”, “insurance”, or words of similar import, without the prior approval of the Mayor.

(f) An entity name shall not be the same as, or so deceptively similar to, the name of any department, agency, or instrumentality of the United States or the District of Columbia so as to mislead the public or cause confusion.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(13), 59 DCR 13171.)

Section references. — This section is referenced in § 29-103.04, § 29-105.03, § 29-105.06, § 29-105.10, § 29-106.03, § 29-302.02, § 29-402.02, § 29-407.04, § 29-610.01, § 29-610.05, § 29-702.01, § 29-802.01, § 29-802.06, § 29-1003.02, and § 29-1202.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Liability of officers.

Nonprofit corporations.

Notice of corporate status.

Liability of officers.

Under District of Columbia law, president of corporate tour business was personally liable for amounts owed to airline company for tickets purchased from airline, where president did not identify business as corporation or disclose his agency relationship with corporation at time tickets were obtained, and where various documents gave neither notice of incorporated status of business nor president's position with business. D.C. Code 1981, § 29-308. *Aeroflot Russian Int'l Airlines v. O'Brien*, 824 F. Supp. 4, 1993 U.S. Dist. LEXIS 8283 (1993).

Under District of Columbia law, corporate officer/sole shareholder was not personally liable on corporation's contractual obligation to catering company; catering company had notice of agency status of officer/shareholder, identity of corporation, and corporation's corporate status from terms of contracts and invoices, prior dealings, and corporate filings with District of Columbia. D.C. Code 1981, § 29-308(1). *Ridgewells Caterer, Inc. v. Nelson*, 688 F. Supp. 760, 1988 U.S. Dist. LEXIS 6357 (1988).

Corporate officers are personally liable for torts which they commit, participate in, or inspire, even though the acts are performed in the name of the corporation. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Sufficient participation in a tort, so as to impose personal liability on a corporate officer, can exist when there is an act or omission by the officer which logically leads to the inference that he had a share in the wrongful acts of the corporation which constitute the offense. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Officer of private corporation that was awarded contract to manage nursing home owned by the District of Columbia was personally liable, as a corporate shareholder, to employees on their claim under the Wage Payment Law; corporate veil was pierced by officer's conduct in transferring assets to another corporation that he controlled in order to shield them from taxing authorities, and in misleading employees into believing that their obligations to

the government and creditors were being satisfied, was part of a deceptive scheme that proximately led to the collapse of the corporations and the failure to pay wages. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Officer of private corporation that was awarded contract to manage nursing home owned by the District of Columbia was personally liable to employees, due to his tortious conduct, on their claim under the Wage Payment Law, where officer transferred assets to another corporation that he controlled in order to shield them from taxing authorities, officer misled employees into believing that their obligations to the government and creditors were being satisfied, and this deceptive scheme proximately caused the collapse of the corporations and the failure to pay wages. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Officer of corporation, who was the daughter of officer of corporation that was awarded contract to manage nursing home owned by the District of Columbia, was personally liable to employees, both as a corporate officer and as a shareholder, on their claim under the Wage Payment Law, though officer followed orders from her father, where officer was actively involved in scheme that transferred assets to her corporation in order to shield them from taxing authorities, which proximately caused the collapse of the corporations and the failure to pay wages. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

An officer's liability is not based merely on the officer's position in the corporation; it is based on the officer's behavior and whether that behavior indicates that the tortious conduct was done within the officer's area of affirmative official responsibility and with the officer's consent or approval. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Personal liability of a corporate officer for tortious conduct must be premised upon the officer's meaningful participation in the wrongful acts. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Officer of private corporation that was awarded contract to manage nursing home owned by the District of Columbia was not

personally liable to employees on their claim under the Wage Payment Law, though she was the wife of officer who was found to be personally liable to the employees; employees proffered no evidence that officer, as treasurer, was actively involved in her husband's scheme that transferred assets in order to shield them from taxing authorities, which proximately caused the collapse of the corporations and the failure to pay wages. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Although personal liability of a corporate officer for tortious conduct may in some circumstances be based upon his failure to act to prevent a wrong, the plaintiff must show that the officer's omission bears some relationship to that wrong, e.g., proof that the officer was aware of a dangerous situation and nevertheless permitted reasonably preventable harm to occur. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Nonprofit corporations.

Political group's incorporation as non-profit corporation did not give exclusive rights to its name to exclusion of unincorporated, but older,

association; only registration of a trademark in the United States Patent and Trademark Office (USPTO) could assign exclusive rights to that trademark. *Ward One Democrats, Inc. v. Woodland*, 898 A.2d 356, 2006 D.C. App. LEXIS 202 (2006).

Notice of corporate status.

Business card, written agreement between the parties, correspondence, invoices, and checks containing only the name "Eurowest Tours", failed to contain any notice of incorporated status, and where checks containing the name "Eurowest Tours, Inc." were only some of the many checks sent, these checks did not by themselves provide sufficient notice. D.C. Code 1981, § 29-308. *Aeroflot Russian Int'l Airlines v. O'Brien*, 824 F. Supp. 4, 1993 U.S. Dist. LEXIS 8283 (1993).

In addition to checks drawn in payment for services that revealed the corporate identity of the defendant, the use of the term "Ltd." in its correspondence and on its checks is further evidence of its corporate status. D.C. Code 1981, § 29-308(1). *Ridgewells Caterer, Inc. v. Nelson*, 688 F. Supp. 760, 1988 U.S. Dist. LEXIS 6357 (1988).

§ 29-103.02. Name requirements for certain types of entities.

(a) The name of a business corporation shall contain the word "corporation", "incorporated", "company", or "limited", or the abbreviation "Corp.", "Inc.", "Co.", or "Ltd.", or words or abbreviations of similar import in another language.

(b) The name of a nonprofit corporation need not contain any particular word or abbreviation.

(c) The name of a professional corporation shall contain the phrase "professional corporation" or the abbreviation "P.C.", or the word "chartered", or the abbreviation "Chtd", and may not contain the word "company", "incorporated", "corporation", or "limited", or an abbreviation of those words.

(d) The name of a limited partnership may contain the name of any partner. If the limited partnership is not a limited liability limited partnership, the name shall contain the phrase "limited partnership" or the abbreviation "L.P." or "LP" and shall not contain the phrase "limited liability limited partnership" or "registered limited liability limited partnership" or the abbreviation "L.L.L.P.", "LLLP", "R.L.L.L.P.", or "RLLLP". If the limited partnership is a limited liability limited partnership, the name shall contain the phrase "limited liability limited partnership" or the abbreviation "L.L.L.P.", "LLLP", "R.L.L.L.P.", or "RLLLP" and shall not contain the abbreviation "L.P." or "LP".

(e) The name of a limited liability partnership that is not a limited liability limited partnership shall contain the words "limited liability partnership" or "registered limited liability partnership" or the abbreviation "L.L.P.", "R.L.L.P.", "LLP", or "RLLP". The name of a partnership that is not a limited liability partnership may not contain these names or abbreviations.

(f) The name of a limited liability company other than a professional limited liability company shall contain the words “limited liability company” or “limited company” or the abbreviation “L.L.C.”, “LLC”, “L.C.”, or “LC”. The name of a professional limited liability company shall contain the words “professional limited liability company” or the abbreviation “P.L.L.C.” or “PLLC”. “Limited” may be abbreviated as “Ltd.”, and “company” may be abbreviated as “Co.”.

(g) The name of a general cooperative shall contain the words “cooperative association”. “Cooperative” may be abbreviated as “Co-op” or “Coop”. “Association” may be abbreviated as “Assoc.”, “Assoc”, “Assn.”, or “Assn”.

(h) The name of a limited cooperative association shall contain the words “limited cooperative association” or “limited cooperative” or the abbreviation “L.C.A.” or “LCA”. “Limited” may be abbreviated as “Ltd.”. “Cooperative” may be abbreviated as “Co-op.”, “Coop.”, “Co-op”, or “Coop”. “Association” may be abbreviated as “Assoc.”, “Assoc”, “Assn.”, or “Assn”.

(i) The name of a statutory trust may contain the words or abbreviations “company”, “association”, “club”, “foundation”, “fund”, “institute”, “society”, “union”, “syndicate”, “limited”, or “trust”, or words or abbreviations of similar import, and may contain the name of a beneficial owner, a trustee, or any other person.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(14), 59 DCR 13171.)

Section references. — This section is referenced in § 29-302.02, § 29-307.03, § 29-610.01, § 29-610.05, § 29-702.01, § 29-802.01, § 29-802.06, § 29-1003.02, and § 29-1202.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the second sentence in (e); and twice substituted “words or abbreviations” for “words” in (i).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-103.03. Reservation of name.

(a) A person may reserve the exclusive use of an entity name by delivering an application to the Mayor for filing. The application shall state the name and address of the applicant and the name proposed to be reserved. If the Mayor finds that the entity name applied for is available, the Mayor shall reserve the name for the applicant’s exclusive use for a 120-day period.

(b) The owner of a reserved entity name may transfer the reservation to another person by delivering to the Mayor a signed notice in a record of the transfer which states the name and address of the transferee.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-103.01 and § 47-2855.02.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

§ 29-103.04. Registration of name.

(a) A foreign filing entity or foreign limited liability partnership not registered to do business in the District under subchapter VI of this chapter may register its name, or an alternate name required by § 29-105.06, if the name is distinguishable upon the records of the Mayor from the names that are not available under § 29-103.01.

(b) To register its name or an alternate name required by § 29-105.06, a foreign filing entity or foreign limited liability partnership shall deliver to the Mayor for filing an application setting forth its name, or its name with any addition required by § 29-105.06, and the jurisdiction and date of its formation. If the Mayor finds that the name applied for is available, the Mayor shall register the name for the applicant's exclusive use.

(c) The registration of a name under this section shall be effective for one year after the date of registration.

(d) A foreign filing entity or foreign limited liability partnership whose name registration is effective may renew the registration for successive one-year periods by delivering, not earlier than 3 months before the expiration of the registration, to the Mayor for filing a renewal application that complies with this section. When filed, the renewal application renews the registration for a succeeding one-year period.

(e) A foreign filing entity or foreign limited liability partnership with an effective name registration may register as a foreign filing entity or foreign limited liability partnership under its registered name, or may consent in a signed record to the use of that name by another entity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(15), 59 DCR 13171.)

Section references. — This section is referenced in § 29-103.01 and § 47-2855.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registration” for “filing” in (c); substituted “registration” for “registration year” in (d); and rewrote (e).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter IV. Registered Agent.

§ 29-104.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Designation of agent” means a statement designating a registered agent, that is delivered to the Mayor for filing under § 29-104.11 by a nonregistered foreign entity or domestic nonfiling entity.

(2) “Registered agent filing” means:

(A) The public organic record of a domestic filing entity;

(B) A statement of qualification of a domestic limited liability partnership;

- (C) A foreign registration statement filed pursuant to § 29-105.03; or
- (D) An designation of a registered agent.

(3) “Represented entity” means a:

- (A) Domestic filing entity;
- (B) Domestic or limited liability partnership;
- (C) Registered foreign entity;

(D) Domestic or foreign unincorporated nonprofit association for which a designation of an agent is in effect;

(E) Domestic nonfiling entity for which a designation of an agent has been filed; or

(F) Nonregistered foreign entity for which a designation of an agent has been filed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(16), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.02. Entities required to designate and maintain registered agent.

The following shall designate and maintain a registered agent in the District:

- (1) A domestic filing entity;
- (2) A domestic limited liability partnership; and
- (3) A registered foreign entity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(17), 59 DCR 13171.)

Section references. — This section is referenced in § 29-105.11.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “that does not maintain a place of business in the District” following “partnership” in (2); and substituted “registered” for “qualified” in (3).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings generally.
Office.

Service upon corporate agent.

Actions and proceedings generally.

Order vacating default judgment entered over five months earlier, under rule authorizing

relief from judgment for “any other reason justifying relief from the operation of the judgment”, was not abuse of discretion, in view of circumstances involving defendant’s failure to receive any notice of suit against it filed after death of its registered agent and its unawareness of such action until after judgment by default had been entered and attachment of its bank account completed. D.C. Code 1961,

§§ 11-772, 29-907(b); General Sessions Court Rules, § 1, rule 60(b)(1, 6). *Meadis v. Atlantic Constr. & Supply Co.*, 212 A.2d 613, 1965 D.C. App. LEXIS 225 (App. 1965).

Office.

Under Business Corporation Act of District of Columbia requiring a corporation to have and continuously maintain in district a registered office which may be but need not be the same as its place of business and a registered agent, Congress intended only that the registered office and registered agent remain in District and did not require that they be at place of business which would imply, so far as events after organization are concerned, that the place of business might be elsewhere than the District. D.C. Code 1951, § 29-907. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

The Business Corporation Act of District of Columbia, considered in its entirety, contemplates that principal place of business of a corporation may be outside the District after organization in the sense of creation, and there was no intention to make the proviso that "no corporation may be organized" under the Act "unless the place where it conducts its principal business is located within the District of Columbia" a continuing regulation. D.C. Code 1951, §§ 29-903, 29-904(j), 29-907(a, b), 29-

920(a), 29-921a, 29-931, 29-932, 29-952a. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

Service upon corporate agent.

A writ of attachment after judgment may be properly served on a corporate garnishee by delivering it to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. D.C. Code 1981, §§ 16-501 to 16-584; Civil Rule 4(d)(3). *Wrecking Corp. of America, Inc. v. Jersey Welding Supply, Inc.*, 463 A.2d 678, 1983 D.C. App. LEXIS 418 (1983).

Service of writ of attachment upon corporation accomplished by delivery of writ to corporation's registered agent was valid. D.C. Code 1981, §§ 16-501 to 16-584; Civil Rule 4(d)(3). *Wrecking Corp. of America, Inc. v. Jersey Welding Supply, Inc.*, 463 A.2d 678, 1983 D.C. App. LEXIS 418 (1983).

A corporate garnishee's failure to answer a writ of attachment served upon its registered agent may prove fatal if a judgment of condemnation is subsequently sought and entered against it on behalf of the judgment creditor. D.C. Code 1981, §§ 16-501 to 16-584; Civil Rule 4(d)(3). *Wrecking Corp. of America, Inc. v. Jersey Welding Supply, Inc.*, 463 A.2d 678, 1983 D.C. App. LEXIS 418 (1983).

§ 29-104.03. Addresses in filings.

If a provision of this subchapter other than § 29-104.10(a)(4) requires that a record state an address, the record shall state a:

- (1) Street address in the District; and
- (2) Mailing address in the District, if different from the address described in paragraph (1) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-104.04. Designation of registered agent.

- (a) A registered agent filing shall be signed by the entity and state:
 - (1) The name of the represented entity's commercial registered agent; or
 - (2) If the entity does not have a commercial registered agent:
 - (A) The name and address of the entity's noncommercial registered agent; or
 - (B) If the entity designates an officer or employee to accept service of process, the title of the office or other position and the address of the business office of that person.
- (b) The designation of a registered agent pursuant to subsection (a)(1) or

(2)(A) of this section shall be an affirmation under § 29-102.09 by the represented entity that the agent has consented to serve.

(c) The Mayor shall make available in a record as soon as practicable a daily list of filings that contain the name of a registered agent. The list shall:

- (1) Be available for at least 14 calendar days;
- (2) List in alphabetical order the names of the registered agents; and
- (3) State the type of filing and name of the represented entity making the filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(18), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.02, § 29-104.07, § 29-104.08, § 29-104.11, § 29-104.13, § 29-105.03, § 29-105.04, § 29-105.10, § 29-107.01, § 29-302.02, § 29-308.05, § 29-402.02, § 29-610.01, § 29-702.01, § 29-802.01, § 29-906, and § 29-1003.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Designation” for “Appointment” in the section heading; substituted “shall be signed by the

entity and state” for “shall state” in the introductory language of (a); and substituted “designation” for “appointment” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.05. Listing of commercial registered agent.

(a) A person may become listed as a commercial registered agent by delivering to the Mayor for filing a commercial registered agent listing statement signed by the person which states:

- (1) The name of the individual or the name of the entity, type of entity, and jurisdiction of formation of the entity;
- (2) That the person is in the business of serving as a commercial registered agent in the District; and
- (3) The address of a place of business of the person in the District to which service of process, notices, and demands being served on or sent to entities represented by the person may be delivered.

(b) A commercial registered agent listing statement may include the information regarding acceptance by the agent of service of process in a form other than a written record as provided for in § 29-104.12(e).

(c) If the name of a person delivering to the Mayor for filing a commercial registered agent listing statement is not distinguishable on the records of the Mayor from the name of another commercial registered agent listed under this section, the person shall adopt a fictitious name that is distinguishable and use that name in its statement and when it does business in the District as a commercial registered agent.

(d) The Mayor shall note the filing of the commercial registered agent listing statement in the records maintained by the Mayor for each entity represented by the agent at the time of the filing. The statement has the effect of amending the registered agent filing for each of those entities to:

- (1) Designate the person becoming listed as the commercial registered agent of each of those entities; and

(2) Delete the address of the former agent from the registered agent filing of each of those entities.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(19), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.02, § 29-104.06, § 29-104.09, § 29-104.12, and § 29-104.13.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Section 2(a)(19)(B) of D.C. Law 19-210 provided: “(B) Subsection (b) is amended by striking the phrase ‘and other notice and documents’ and inserting the phrase ‘, notices, and demands’ in its place.” Because this language did not match the statute text of § 29-104.05(b), the amendment could not be implemented.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.06. Termination of listing of commercial registered agent.

(a) A commercial registered agent may terminate its listing as a commercial registered agent by delivering to the Mayor for filing a commercial registered agent termination statement signed by the agent which states:

(1) The name of the agent as listed under § 29-104.05; and

(2) That the agent is no longer in the business of serving as a commercial registered agent in the District.

(b) A commercial registered agent termination statement shall be effective at 12:01 a.m. on the 31st day after the day on which it is delivered to the Mayor for filing.

(c) The commercial registered agent promptly shall furnish each entity represented by the agent notice in a record of the filing of the commercial registered agent termination statement.

(d) When a commercial registered agent termination statement takes effect, the commercial registered agent ceases to be a registered agent for each entity formerly represented by it. Until an entity formerly represented by a terminated commercial registered agent designates a new registered agent, service of process may be made on the entity pursuant to § 29-104.12. Termination of the listing of a commercial registered agent under this section shall not affect any contractual rights a represented entity has against the agent or that the agent has against the entity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(20), 59 DCR 13171.)

Section references. — This section is referenced in § 29-104.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “or on behalf of” following “signed by” in (a); and in (d) substituted “a registered agent for” for “an agent for service of process on”, and “designates” for “appoints”.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.07. Change of registered agent by entity.

(a) A represented entity may change the information on file under § 29-104.04(a) by delivering to the Mayor for filing a statement of change signed on behalf of an authorized person on behalf of the entity which states the:

(1) Name of the entity; and

(2) Information that is to be in effect as a result of the filing of the statement of change.

(b) The interest holders or governors of a domestic entity need not approve the filing of a:

(1) Statement of change under this section; or

(2) Similar filing changing the registered agent or registered office, if any, of the entity in any other jurisdiction.

(c) A statement of change under this section designating a new registered agent shall be an affirmation under § 29-102.09 by the represented entity that the agent has consented to serve.

(d) As an alternative to using the procedure in this section, a represented entity may change the information on file under § 29-104.04(a) by amending its most recent registered agent filing in a manner provided by law of the District other than this title for amending the filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(21), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.11, § 29-105.11, § 29-601.11, § 29-702.02, § 29-702.06, § 29-802.02, § 29-802.05, § 29-1202.02, and § 29-1202.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “signed on behalf of” for “signed by” in (a); substituted “registered office, if any” for “registered office” in (b)(2); substituted “designating” for “appointing” in (c); repealed former (d), which read: “A statement of change under this

section shall be effective on delivery to the Mayor for filing”; and redesignated former (e) as (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.08. Change of name, address, type of entity, or jurisdiction of formation by noncommercial registered agent.

(a) If a noncommercial registered agent changes its name, its address in effect with respect to a represented entity under § 29-104.04(a), its type of entity, or its jurisdiction of formation, the agent shall deliver to the Mayor for filing, with respect to each entity represented by the agent, a statement of change signed by the agent which states:

(1) The name of the entity;

(2) The name and address of the agent in effect with respect to the entity;

(3) If the name of the agent has changed, the new name;

(4) If the address of the agent has changed, the new address; and

(5) If the agent is an entity:

(A) If the type of entity has changed, the new type of entity; and

(B) If the jurisdiction of formation has changed, the new jurisdiction of formation.

(b) A noncommercial registered agent promptly shall furnish the represented entity with notice in a record of the delivery to the Mayor for filing of a statement of change and the changes made in the statement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(22), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.11.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.09. Change of name, address, type of entity, or jurisdiction of formation by commercial registered agent.

(a) If a commercial registered agent changes its name, its address as listed under § 29-104.05(a)(3), its type of entity, or its jurisdiction of formation, the agent shall deliver to the Mayor for filing a statement of change signed by the agent which states:

- (1) The name of the agent as listed under § 29-104.05(a)(1);
- (2) If the name of the agent has changed, the new name;
- (3) If the address of the agent has changed, the new address;
- (4) If the type of entity has changed, the new type of entity; and
- (5) If the jurisdiction of formation of the entity has changed, the new jurisdiction of formation.

(b) The filing by the Mayor of a statement of change under subsection (a) of this section shall change the information regarding the agent with respect to each entity represented by the agent.

(c) A commercial registered agent promptly shall furnish each entity represented by it notice in a record of the filing by the Mayor of a statement of change relating to the name or address of the agent and the changes made in the statement.

(d) If a commercial registered agent changes its address without delivering for filing a statement of change as required by this section, the Mayor may cancel the listing of the agent under § 29-104.05. A cancellation under this subsection shall have the same effect as a termination under § 29-104.06. Promptly after canceling the listing of an agent, the Mayor shall serve notice in a record in the manner provided in § 29-104.12(b) or (c) on:

(1) Each entity represented by the agent, stating that the agent has ceased to be a registered agent for the entity and that, until the entity designates a new registered agent, service of process may be made on the entity as provided in § 29-104.12; and

(2) The agent, stating that the listing of the agent has been canceled under this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(23), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.11.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “or on behalf of” following “signed by” in (a); substituted “filing by the Mayor” for “delivery to the Mayor for filing by a commercial registered agent” in (b); substituted “filing by the Mayor” for “delivery to the Mayor for filing” in (c); and in (d)(1) substituted “a registered agent for” for

“an agent for service of process on” and “designates” for “appoints”.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.10. Resignation of registered agent.

(a) A registered agent may resign as agent for a represented entity by delivering to the Mayor for filing a statement of resignation signed by the agent which states:

(1) The name of the entity;

(2) The name of the agent;

(3) That the agent resigns from serving the registered agent for the entity; and

(4) The address of the entity to which the agent will send the notice required by subsection (c) of this section.

(b) A statement of resignation shall be effective on the earlier of the 31st day after the day on which it is filed by the Mayor or the designation of a new registered agent for the represented entity.

(c) A registered agent promptly shall furnish the represented entity notice in a record of the date on which a statement of resignation was filed by the Mayor.

(d) When a statement of resignation takes effect, the registered agent shall cease to have responsibility under this subchapter for any matter thereafter tendered to it as agent for the represented entity. The resignation shall not affect any contractual rights the entity has against the agent or that the agent has against the entity.

(e) A registered agent may resign with respect to a represented entity whether or not the entity is in good standing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(24), 59 DCR 13171.)

Section references. — This section is referenced in § 29-104.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “or on behalf of” following “signed by” in the introductory language of (a); substituted “the registered agent” for “agent for service of process” in (a)(3); substituted “designation” for “appointment” in

(b); substituted “filed by the Mayor” for “delivered to the Mayor for filing” in (b) and (c); and substituted “responsibility under this subchapter for any matter thereafter tendered” for “responsibility for any matter tendered” in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.11. Designation of registered agent by nonregistered foreign entity or nonfiling domestic entity.

(a) A nonregistered foreign entity or domestic nonfiling entity may deliver to the Mayor for filing a statement designating a registered agent signed by the entity which states the:

- (1) Name, type of entity, and jurisdiction of formation of the entity; and
- (2) Information required by § 29-104.04(a).

(b) A statement designating a registered agent under subsection (a) of this section is effective on filing by the Mayor and shall be effective for 5 years after the date of filing unless canceled or terminated earlier.

(c) Designation of a registered agent under subsection (a) of this section does not register a nonregistered foreign entity to do business in the District.

(d) A statement designating a registered agent under subsection (a) of this section may not be rejected for filing because the name of the entity filing the statement is not distinguishable on the records of the Mayor from the name of another entity appearing in those records. The filing of the statement shall not make the name of the entity filing the statement unavailable for use by another entity.

(e) An entity that delivers to the Mayor for filing a statement under subsection (a) of this section designating a registered agent may cancel the statement by delivering to the Mayor for filing a statement of cancellation that states the name of the entity and that the entity is canceling its designation of a registered agent in the District. The statement shall be effective on filing by the Mayor.

(f) A statement designating a registered agent under subsection (a) of this section for a nonregistered foreign entity terminates on the date the entity becomes a registered foreign entity.

(g) A statement under subsection (a) of this section must be signed by a person authorized to manage the affairs of the nonregistered foreign entity or domestic nonfiling entity and by the person designated as the agent. The signing of the statement is an affirmation of fact that the person is authorized to manage the affairs of the entity and that the agent has consented to serve.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(25), 59 DCR 13171.)

Section references. — This section is referenced in § 29-104.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “appoint” or its variants for “designate” or its variants throughout the section and in the section heading; substituted “nonregistered” for “nonqualified” throughout the section and in the section heading; substituted “by” for “on

behalf of” in (a); substituted “designating a registered agent under subsection (a) of this section is” for “appointing a registered agent shall be” in (b); substituted “subsection (a) of this section does not register a nonregistered” for “this section shall not qualify a” in (c); substituted “designating a registered agent under subsection (a) of this section may” for “appointing a registered agent shall” in (d); substi-

tuted "designation of a registered agent" for "appointment of an agent for service of process" in (e); substituted "designating a registered agent under subsection (a) of this section" for "appointing a registered agent" in (f); and added (g).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.12. Service of process, notice, or demand on entity.

(a) A represented entity may be served with any process, notice, or demand required or permitted by law by serving its registered agent.

(b) If a represented entity ceases to have a registered agent, or if its registered agent cannot with reasonable diligence be served, the entity may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the entity at its principal office in accordance with any applicable judicial rules and procedures. The address of the principal office shall be shown as in the entity's most recent biennial report filed by the Mayor. Service shall be effective under this subsection on the earliest of:

(1) The date that the entity receives the mail or delivery by a similar commercial delivery service;

(2) The date shown on the return receipt, if signed by the entity; or

(3) Five days after its deposit with the United States Postal Service or similar commercial delivery service, if correctly addressed and with sufficient postage or payment.

(c) Service may be made by handing a copy of the process, notice, or demand to an officer of the entity, a managing or general agent of the entity, or any other agent authorized by designation or by law to receive service of process for the entity if the individual served is not a plaintiff in the action.

(d) If an entity fails to designate or maintain a registered agent in the District as required by law, or if an entity's registered agent in the District cannot with reasonable diligence be found, and if the person seeking service submits a declaration under penalty of making false statements showing that a registered agent for the entity cannot be found, the Mayor shall be an agent of the entity upon whom any process against the entity may be served and upon whom any notice or demand required or permitted by law to be served upon the entity may be served. Service on the Mayor of the process, notice, or demand shall be made by delivering or leaving with the Mayor, or his designee, duplicate copies of the process, notice, or demand. If any process, notice, or demand is so served, the Mayor shall immediately cause one of the copies to be forwarded by registered or certified mail to the entity at its principal office or at its last known address.

(e) Service of process, notice, or demand on a registered agent shall be in a written record, but service may be made on a commercial registered agent in other forms, and subject to such requirements, as the agent has stated in its listing under § 29-104.05 that it will accept.

(f) Service of process, notice, or demand may be made by other means under law other than this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(26), 59 DCR 13171.)

Cross references. — Withdrawal of foreign filing entity that has converted to a foreign nonfiling entity, see § 29-105.09.

Administrative dissolution, reinstatement, see § 29-106.03.

Section references. — This section is referenced in § 29-104.05, § 29-104.06, § 29-104.09, § 29-105.07, § 29-105.09, § 29-106.02, § 29-106.03, § 29-106.04, § 29-202.06, § 29-204.06, § 29-205.06, § 29-307.05, § 29-309.07, § 29-609.03, § 29-809.05, § 29-809.09, § 29-1015.05, § 29-1015.06, § 29-1126, and § 29-1207.05.

Effect of amendments. — The 2013

amendment by D.C. Law 19-210 in rewrote the introductory language of (b); substituted “by” for “on behalf of” in (b)(2); substituted “designation” for “appointment” in (c); and in rewrote the first sentence in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings generally.
Agents authorized to receive service.
Doing business within district.
Effect of service upon agent.
Government as agent for service.
In general.
Sufficiency of service generally.

Actions and proceedings generally.

Necessity for dismissal of complaint did not make dispute over whether corporate defendant was subject to service in District of Columbia moot. *Kelberine v. Societe Internationale, etc.*, 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Where garnishee appeared and opposed, on jurisdictional grounds, judgment creditor’s motion for judgment of recovery, though garnishee had previously failed to answer, and where garnishee alleged that nothing was owed to judgment debtor when writs were received and that judgment debtor thereafter left his job with garnishee, judgment of recovery should not be entered if, on further proceedings, it were shown that no additional wages became due judgment debtor from garnishee between receipt of writs and termination of debtor’s employment and if there were otherwise cause to permit answer to be filed. D.C. Code §§ 16-552(a), 16-556(b), 16-573(a)(1, 2), 17-306, 29-933i(c). *Metropolitan Roofing & Sheet Metal Co. v. Franklin Inv. Co.*, 256 A.2d 913, 1969 D.C. App. LEXIS 323 (App. 1969).

Agents authorized to receive service.

Service on attorney in fact who had been appointed and maintained in District of Columbia by Swiss corporation and who was autho-

rized to accept service of all notices and process on corporation’s behalf for proceedings between Attorney General, Secretary of Treasury, and corporation which sued to recover property that had been vested in Alien Property Custodian under Trading with the Enemy Act was valid in action by citizens to enjoin Attorney General and Secretary from paying proceeds of sale of property to Swiss corporation. D.C. Code 1961, §§ 11-306, 29-933i(a); Trading with the Enemy Act, §§ 1 et seq., 9(a) as amended 50 U.S.C.App. §§ 1 et seq., 9(a). *Kelberine v. Societe Internationale, etc.*, 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Foreign corporation which comes into District of Columbia for purpose of filing and prosecuting in District Court a suit concerning certain property cannot by restricting authority of its resident agent immunize itself against suit in the same court involving the same property. D.C. Code 1961, §§ 11-306, 29-933i(a, c). *Kelberine v. Societe Internationale, etc.*, 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

A writ of attachment after judgment may be properly served on a corporate garnishee by delivering it to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process. D.C. Code 1981, §§ 16-501 to 16-584; Civil Rule 4(d)(3). *Wrecking Corp. of America, Inc. v. Jersey Welding Supply, Inc.*, 463 A.2d 678, 1983 D.C. App. LEXIS 418 (1983).

Doing business within district.

Swiss corporation’s filing and prosecution of civil action in District of Columbia to recover property consisting of stock of Delaware corpo-

ration established presence of the corporation in the District and subjected corporation to process therein in action by two citizens to enjoin Attorney General and Secretary of Treasury from paying any part of corporation's share of proceeds of sale of the stock to corporation on ground that citizens and others had suffered under the "Nazi Conspiracy" and that Swiss corporation was creature of German corporation profiting therefrom. Trading with the Enemy Act, §§ 1 et seq., 9(a) as amended 50 U.S.C.App. §§ 1 et seq., 9(a); D.C. Code 1961, § 11-306. *Kelberine v. Societe Internationale, etc.*, 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Liability of foreign corporation to suit in District of Columbia does not depend upon its doing business in the District but depends upon its being found there. D.C. Code, §§ 11-306, 29-933(b). *Kelberine v. Societe Internationale, etc.*, 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

A corporation which is "doing business" in District of Columbia is amenable to service under District of Columbia statute covering service on foreign corporations regardless of any connection between claim for relief and District of Columbia. D.C. Code § 13-334(a). *Ramamurti v. Rolls-Royce, Ltd.*, 454 F. Supp. 407, 1978 U.S. Dist. LEXIS 16371 (1978), affirmed without opinion by 612 F.2d 587, 198 U.S. App. D.C. 92 (1980), affirmed without opinion by 612 F.2d 587, 198 U.S. App. D.C. 92 (1980).

In order for foreign corporation to be "doing business" in District of Columbia so as to be amenable to service there in enforcement actions brought by FTC, it was not necessary that corporation maintain permanent office in District of Columbia. D.C. Code §§ 13-334, 29-933i. In re FTC Corporate Patterns Report Litigation, 432 F. Supp. 274, 1977 U.S. Dist. LEXIS 17748 (1977).

New York corporation, involved in construction and operation of mills in foreign countries, was not within District of Columbia jurisdiction through government contacts taking advantage of services offered to prospective foreign investors by federal agencies, for purpose of action by plaintiffs in whose favor corporation negotiated federal loan. D.C. Code §§ 13-423(a)(1), 29-933i(c). *Siam Kraft Paper Co. v. Parsons & Whittemore, Inc.*, 400 F. Supp. 810, 1975 U.S. Dist. LEXIS 16002 (1975), affirmed by 521 F.2d 324, 172 U.S. App. D.C. 224 (1975).

Absence of tangible indicia of corporate presence does not automatically mean that corporation is immune from service of process if it is, in fact, carrying on regular course of business

in the jurisdiction. *Metropolitan Roofing & Sheet Metal Co. v. Franklin Inv. Co.*, 256 A.2d 913, 1969 D.C. App. LEXIS 323 (App. 1969).

Absence of tangible indicia of corporate presence does not automatically mean that corporation is immune from service of process if it is, in fact, carrying on regular course of business in jurisdiction. D.C. Code 1961, § 29-933i(c). *Stevens v. American Service Mut. Ins. Co.*, 234 A.2d 305, 1967 D.C. App. LEXIS 197 (App. 1967).

Foreign insurance corporation which received insurance applications at its principal office in Alabama and mailed contracts of insurance to District of Columbia residents whose applications were accepted, which employed independent adjusting firm in the District on case by case basis to investigate and attempt settlement of claims against its policyholders, and which also employed attorneys to defend actions against its policyholders was "transacting business" in the District under statute and was subject to in personam jurisdiction by delivery of copy of complaint to District commissioners. D.C. Code 1961, § 29-933i(c). *Stevens v. American Service Mut. Ins. Co.*, 234 A.2d 305, 1967 D.C. App. LEXIS 197 (App. 1967).

Effect of service upon agent.

Foreign corporation which is present in District and has duly authorized agent to do tasks for which the corporation is present can be served with process in action reasonably within ambit of those tasks by serving the agent. D.C. Code 1961, §§ 11-306, 29-933i(a, c). *Kelberine v. Societe Internationale, etc.*, 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Whether delivery of summons and complaint to incorrect address by private courier negated proper service was moot, in action brought by estate of Iraqi citizen against foreign private-security corporation whose personnel allegedly shot and killed citizen in Iraq, where estate had since made service both upon the mayor of the District of Columbia as agent of corporation and at corporation's business office in District of Columbia. *Estate of Manook v. Research Triangle Inst., Int'l*, 693 F.Supp.2d 4, 2010 U.S. Dist. LEXIS 17257 (2010).

Where foreign corporation received service of process through its appointed registered agent in District of Columbia and corporation was authorized to do business in District, service was sufficient to bring corporation before court in enforcement proceedings brought by FTC. D.C. Code § 29-933i(a, c). In re FTC Corporate Patterns Report Litigation, 432 F. Supp. 274, 1977 U.S. Dist. LEXIS 17748 (1977).

Service of writ of attachment upon corporation accomplished by delivery of writ to corporation's registered agent was valid. D.C. Code 1981, §§ 16-501 to 16-584; Civil Rule 4(d)(3). *Wrecking Corp. of America, Inc. v. Jersey Welding Supply, Inc.*, 463 A.2d 678, 1983 D.C. App. LEXIS 418 (1983).

A corporate garnishee's failure to answer a writ of attachment served upon its registered agent may prove fatal if a judgment of condemnation is subsequently sought and entered against it on behalf of the judgment creditor. D.C. Code 1981, §§ 16-501 to 16-584; Civil Rule 4(d)(3). *Wrecking Corp. of America, Inc. v. Jersey Welding Supply, Inc.*, 463 A.2d 678, 1983 D.C. App. LEXIS 418 (1983).

Government as agent for service.

District of Columbia statute making service upon officer of foreign corporation transacting business in District without place of business or resident agent therein effectual as to suits growing out of contracts entered into therein and statute providing that foreign corporation transacting business in District without certificate shall be deemed to have appointed commissioners its agents are to be read in *pari materia*, and, in respect to action on District contract, service on commissioners was valid. D.C. Code 1961, §§ 13-103, 29-933i(b). *Central Ins. Agency Co. v. Financial Credit Corp.*, 222 F. Supp. 627, 1963 U.S. Dist. LEXIS 6639 (D.D.C.1963).

In general.

Questions of amenability to service and personal jurisdiction in a diversity case are determined by reference to law of forum state. *Ramamurti v. Rolls-Royce, Ltd.*, 454 F. Supp. 407, 1978 U.S. Dist. LEXIS 16371 (1978), affirmed without opinion by 612 F.2d 587, 198 U.S. App. D.C. 92 (1980), affirmed without opinion by 612 F.2d 587, 198 U.S. App. D.C. 92 (1980).

Provision of District of Columbia Code pertaining to service of process on foreign corporations does not relate solely to manner of service and concerns amenability to service. D.C. Code § 29-933i(a, c). *In re FTC Corporate Patterns Report Litigation*, 432 F. Supp. 274, 1977 U.S. Dist. LEXIS 17748 (1977).

Sufficiency of service generally.

Service was quashed and complaint dismissed in treble damage action against foreign corporation under Clayton Act where plaintiff failed to establish that it had complied with statutory requirement of delivering to and leaving with the Commissioners of District of Columbia, or with any clerk having charge of their office, copies of process. Clayton Act, §§ 2-4 as amended 15 U.S.C. §§ 13-15; D.C. Code 1951, § 29-933i. *Curtis Bros., Inc. v. Thomasville*

Chair Co., 292 F.2d 774, 1961 U.S. App. LEXIS 4268 (C.A.D.C. 1961).

Where service on foreign defendant was accomplished by leaving a copy of summons and complaint with a clerical employee in Washington office of defendant's agent, instead of correct procedure of delivering a copy of summons and of complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process, but defendant did not raise an objection to technical deficiency in manner in which its agent was served, and no question was raised as to either agent's or defendant's receipt of timely actual notice of action, and proper service could easily be accomplished on agent by serving either a managing or general agent in Washington office, or by serving defendant's registered agent, district court would deny defendant's motion to quash service and to dismiss complaint as to it for lack of personal jurisdiction. Fed. Rules Civ. Proc. rule 4(d)(3), 18 U.S.C. *Ramamurti v. Rolls-Royce, Ltd.*, 454 F. Supp. 407, 1978 U.S. Dist. LEXIS 16371 (1978), affirmed without opinion by 612 F.2d 587, 198 U.S. App. D.C. 92 (1980), affirmed without opinion by 612 F.2d 587, 198 U.S. App. D.C. 92 (1980).

Personal injury plaintiff was not required to deliver a copy of process paperwork to foreign defendant's corporate address when registered agent could not be found with reasonable diligence; rather, under service of process statute, plaintiff effected proper service when she served mayor, who then caused a copy of complaint to be forwarded by registered or certified mail to corporation at its principal office. *Johnson v. Payless Shoe Source, Inc.*, 841 A.2d 1249, 2004 D.C. App. LEXIS 38 (2004).

Service of process upon Superintendent of Corporations was sufficient service of process upon corporation having no legal existence, even for purposes of defending lawsuits, on date of service. D.C. Code 1981, § 29-587(d); Civil Rule 4(d)(3). *National Paralegal Institute, Inc. v. Bernstein*, 498 A.2d 560, 1985 D.C. App. LEXIS 500 (1985).

Trial court did not abuse its discretion in denying corporate defendant's motion to vacate default judgment, despite contention that defendant's failure to receive notice was due to plaintiff's unnecessary delay and futile attempts to serve a vacant lot upon which defendant at one time operated, where defendant would have received actual notice but for its violation of statute requiring it to maintain information on its current address in South Dakota, service through Superintendent of Corporations was valid under circumstances, plaintiff had no obligation to attempt alternative form of service, and plaintiff would have been prejudiced if the trial court vacated judgment. D.C. Code §§ 29-933i(b), 29-933m, 29-

934b(a)(6); D.C. Code SCR, Civil Rule 60(b)(6).
Union Storage Co. v. Knight, 400 A.2d 316,
1979 D.C. App. LEXIS 322 (1979).

§ 29-104.13. Duties of registered agent.

The only duties of a registered agent under this subchapter are:

(1) Forward to the represented entity at the address most recently supplied to the agent by the entity any process, notice, or demand that is served on the agent;

(2) Provide the notices required by this title to the entity at the address most recently supplied to the agent by the entity;

(3) If the agent is a noncommercial registered agent, keep current the information required by § 29-104.04(a) in the most recent registered agent filing for the entity; and

(4) If the agent is a commercial registered agent, keep current the information listed for it under § 29-104.05(a).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(27), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “only duties of a registered agent under this subchapter are” for “duties of a registered agent shall be” in the introductory language.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-104.14. Personal jurisdiction.

The designation or maintenance in the District of a registered agent shall not by itself create the basis for personal jurisdiction over the represented entity in the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(28), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “designation” for “appointment”.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter V. Foreign Entities.

§ 29-105.01. Governing law.

(a) The law of the jurisdiction of formation of an entity shall govern the:

(1) Internal affairs of the entity;

(2) Liability that a person has as an interest holder or governor for a debt, obligation, or other liability of the entity;

- (3) Liability of a series of a series limited liability company; and
- (4) Liability of a series of a statutory trust.

(b) A foreign entity shall not be precluded from registering to do business in the District because of any difference between the laws of the entity's jurisdiction of formation and the laws of the District.

(c) Registration of a foreign entity to do business in the District shall not authorize it to engage in any activity or exercise any power that a domestic entity of the same type may not engage in or exercise in the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-105.02 and § 29-601.04. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-105.02. Registration to do business in the District.

(a) A foreign filing entity or foreign limited liability partnership shall not do business in the District until it registers with the Mayor under this chapter.

(b) A foreign filing entity or foreign limited liability partnership doing business in the District may not maintain an action or proceeding in the District unless it is registered to do business in the District.

(c) The failure of a foreign filing entity or foreign limited liability partnership to register to do business in the District shall not impair the validity of a contract or act of the foreign filing entity or foreign limited liability partnership or preclude it from defending an action or proceeding in the District.

(d) The liability of an interest holder or governor of a foreign filing entity or of a partner of a foreign limited liability partnership shall be governed by the laws of its jurisdiction of formation. Any limitation on that liability shall be not waived shall [sic] solely because the foreign filing entity or foreign limited liability partnership does business in the District without registering.

(e) Section 29-105.01(a) and (b) shall apply even if a foreign entity fails to register under this chapter.

(f) A foreign filing entity that does business in the District without being registered under § 29-105.03 shall be liable for all fees, penalties, and other charges for which the entity would have been liable if it had registered and had filed all reports required by this chapter for the period during which it did business in the District. The Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia to recover these fees, penalties, and other charges. A foreign entity shall not be registered under this chapter until it has paid these fees, penalties, and other charges.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(29), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted

“may not maintain an action or proceeding” for “shall not maintain an action” in (b); and substituted “an action or proceeding” for “a proceeding” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings.
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Actions and proceedings.

Liability of foreign corporation to suit in District of Columbia does not depend upon its doing business in the District but depends upon its being found there. D.C. Code, §§ 11-306, 29-933(b). *Kelberine v. Societe Internationale*, etc., 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Foreign corporation which comes into District of Columbia for purpose of filing and prosecuting in District Court a suit concerning certain property cannot by restricting authority of its resident agent immunize itself against suit in the same court involving the same property. D.C. Code 1961, §§ 11-306, 29-933i(a, c). *Kelberine v. Societe Internationale*, etc., 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Despite the lack of a certificate of authority from the District of Columbia, a foreign corporation can continue to rely on its corporate form to protect its officers from personal liability for corporate debt. *BDC Capital Props., L.L.C. v. Quan Trinh*, 307 F.Supp.2d 12, 2004 U.S. Dist. LEXIS 3525 (2004).

Foreign corporation could maintain action in District of Columbia against its exclusive sales agent for the United States and her corporation without obtaining certificate of authority to transact business in the District, where defendant corporation had such a certificate, foreign corporation transacted business in the United States only through defendant as its agent, and there was no indication that it intended to have a purposeful connection with the District. D.C. Code 1981, § 29-399(b). *Stock 'In S.A. v. Swissco, Inc.*, 748 F. Supp. 23, 1990 U.S. Dist. LEXIS 13326 (1990).

In light of foreign corporation's failure to produce certificate of authority required by

District of Columbia statute in order for foreign corporations to bring action in District of Columbia court and corporation's failure to even argue that it was permitted under statute to bring lawsuit in District of Columbia as foreign corporation, corporation's remaining nonfederal claims would have to be dismissed, even if court had subject matter jurisdiction over them. D.C. Code 1981, § 29-399.20(a). *ILC Corp. v. Latino Newspaper, Inc.*, 747 F. Supp. 85, 1990 U.S. Dist. LEXIS 13362 (1990).

Venue of Age Discrimination in Employment Act [29 U.S.C. § 621 et seq.] action was proper in the United States District Court for the District of Columbia, where employer had obtained certificate of authority to conduct business in District of Columbia in compliance with District of Columbia laws, and appointed agent to accept service of process, therefore subjecting itself to jurisdiction. *Age Discrimination in Employment Act of 1967*, § 2 et seq., as amended, 29 U.S.C. § 621 et seq. *Dixon v. Stephenson, Inc.*, 614 F. Supp. 60, 1985 U.S. Dist. LEXIS 22638 (1985).

Under statute providing that foreign corporation which transacts business in District of Columbia without a certificate of authority shall not be permitted to maintain an action at law or in equity in any court of the District until such a certificate is obtained, defendant was not entitled to have suit brought by foreign corporation on a contract entered into in District of Columbia dismissed for failure to qualify as a foreign corporation when plaintiff obtained a certificate of authority subsequent to filing of defendant's motion to dismiss the action. D.C. Code 1951, § 29-934f(a-c). *Federal Loose Leaf Corp. v. Woodhouse Stationery Co.*, 163 F.Supp. 482, 1958 U.S. Dist. LEXIS 3995 (D.D.C.1958).

Under the statute prohibiting a foreign corporation transacting business in the District without a certificate from maintaining an action until such certificate is obtained and that such failure shall not impair the validity of any contract or act of the corporation, noncompliance with the statutes was a mere temporary disability and capable of obviation at any stage of the proceedings and hence the statute was not absolutely prohibitive of an action of a foreign corporation but was merely suspensory until compliance with the statute. D.C. Code 1951, §§ 29-901 et seq., 29-934f(a, b). *Federal Loose Leaf Corp. v. Woodhouse Stationery Co.*,

163 F.Supp. 482, 1958 U.S. Dist. LEXIS 3995 (D.D.C.1958).

Right of a foreign corporation to sue upon a contract for the interstate sale of goods cannot be conditioned upon compliance with local registration requirements. *Hargrove Displays, Inc. v. Rohe Scientific Corp.*, 316 A.2d 330, 1974 D.C. App. LEXIS 380 (1974).

English corporation was not precluded from suing in District of Columbia by lack of certificate of authority to do business in District. D.C. Code 1961, §§ 29-933(b), 29-934f. *Loe v. Normalair, Ltd.*, 222 A.2d 643, 1966 D.C. App. LEXIS 222 (App. 1966).

By suing in District of Columbia, English corporation voluntarily submitted to jurisdiction of general sessions court, and fact that corporation had no office or agent in District and did no business there did not preclude the court from hearing corporation's claim. *Loe v. Normalair, Ltd.*, 222 A.2d 643, 1966 D.C. App. LEXIS 222 (App. 1966).

Corporations subject to regulation.

National Visitor Facilities Center Act section authorizing Secretary of the Interior to provide certain kinds of transportation services between federal areas within the District of Columbia and further placing such services under Secretary's sole and exclusive control was intended to insulate concessionaire's operations from local regulation but was not intended to shield concessionaire itself from local informational requirements, and thus Secretary's exclusive control over shuttle service precluded application of local District of Columbia laws relating to vehicle registration and inspection and tour guide licensing but did not preclude application of local laws relating to certification of foreign corporations. *National Visitor Center Facilities Act of 1968*, § 105 as amended 40 U.S.C. § 804; D.C. Code §§ 29-933, 40-102, 40-201, 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

Provisions of District of Columbia Code which required foreign corporation to procure certificate of authority before transacting business in District or bringing action in any court of the District did not divest sports event management company of standing to bring action against bar alleging that it intercepted company's broadcast of boxing match, either via an illegal satellite receiver or unlawful cable converter box, and unlawfully broadcast program in violation of Cable Communications Policy Act and Communications Act; company's cause of action was not derivative, and thus not precluded by, District of Columbia law, District statute could not limit federal question jurisdiction, and party that alleged injury recognized by congressional statute necessarily had standing. *J & J Sports Prod. v. Humphries*

Enters., LLC, 715 F.Supp.2d 71, 2010 U.S. Dist. LEXIS 55826 (2010).

Pennsylvania corporation which employed several persons at Virginia office which served area encompassing Virginia, Maryland, and District of Columbia, which sold products to Virginia sales representatives to customers in district, and which used its own trucks to make deliveries to customers in district was engaged in interstate commerce, and thus could not under commerce clause be required to obtain District of Columbia certificate of authority before commencing action in District on promissory note. U.S. Const. art. 1, § 8; D.C. Code § 29-933. *Lehigh Portland Cement Co. v. Ornstein*, 334 F. Supp. 1032, 1971 U.S. Dist. LEXIS 10478 (1971).

Federal courts.

A federal court, sitting in diversity in District of Columbia, must apply District's door closing statute. D.C. Code 1981, § 29-399.20. *Telephone & Data Sys., Inc. v. American Cellular Network Corp.*, 966 F.2d 696, 1992 U.S. App. LEXIS 13307 (C.A.D.C. 1992).

District of Columbia's "door-closing statute," preventing foreign corporations from bringing action in District of Columbia court absent certificate of authority, applies with equal force to federal district court sitting in diversity. D.C. Code 1981, § 29-399.20(a). *ILC Corp. v. Latino Newspaper, Inc.*, 747 F. Supp. 85, 1990 U.S. Dist. LEXIS 13362 (1990).

In general.

Under statutes prohibiting foreign corporations transacting business in the District without a certificate from maintaining actions therein, real purpose of legislation was to bring such corporations under regulation of public officials charged with such responsibility to end that public could have the same information respecting their background and financial standing as demanded of domestic corporations and as a consequence to render them amenable to ordinary legal processes. D.C. Code 1951, §§ 29-901 et seq., 29-934f(a, b). *Hill-Lanham, Inc. v. Lightview Development Corp.*, 163 F.Supp. 475, 1957 U.S. Dist. LEXIS 2693 (D.D.C.1957).

Under statute relating to foreign corporations qualifying to do business within District of Columbia, noncomplying foreign corporation exists within District subject only to disabilities and penalties set forth in statute. D.C. Code § 29-934f(a, c). *A. Tasker, Inc. v. Amsellem*, 315 A.2d 178, 1974 D.C. App. LEXIS 348 (1974).

Foreign corporations, unless prohibited by statute, have right to do business in states other than state of their incorporation. *A. Tasker, Inc. v. Amsellem*, 315 A.2d 178, 1974 D.C. App. LEXIS 348 (1974).

Liabilities of stockholders, officers, or directors.

Fact that foreign corporation did not qualify

to do business within District of Columbia did not entitle creditor of corporation to maintain suit against individual officers of corporation. D.C. Code §§ 13-423(a)(1), 29-934f, 29-950. A. Tasker, Inc. v. Amsellem, 315 A.2d 178, 1974 D.C. App. LEXIS 348 (1974).

Service of process.

Delaware federal savings bank's failure to maintain registered agent for service in District of Columbia did not provide plaintiff borrower with good cause for failure to timely serve bank, in determining whether time for service should be extended; District of Columbia statute provided mayor would be agent for service of process on foreign corporation that did not have agent, and borrower conceded she could have served mayor's office and that, if she had done so, service would have been timely. Colston v. First Guar. Commer. Mortg. Corp., 665 F.Supp.2d 5, 2009 U.S. Dist. LEXIS 99445 (2009).

Standing.

Provisions of District of Columbia Code which required foreign corporation to procure certificate of authority before transacting business in District or bringing action in any court of the District did not divest sports event management company of standing to bring action against bar alleging that it intercepted company's broadcast of boxing match, either via an illegal satellite receiver or unlawful cable converter box, and unlawfully broadcast program in violation of Cable Communications Policy Act and Communications Act; company's cause of action was not derivative, and thus not precluded by, District of Columbia law, District statute could not limit federal question jurisdiction, and party that alleged injury recognized by congressional statute necessarily had standing. J & J Sports Prod. v. Humphries Enters., LLC, 715 F.Supp.2d 71, 2010 U.S. Dist. LEXIS 55826 (2010).

Transacting business within district.

Swiss corporation's filing and prosecution of civil action in District of Columbia to recover property consisting of stock of Delaware corporation established presence of the corporation in the District and subjected corporation to process therein in action by two citizens to enjoin Attorney General and Secretary of Treasury from paying any part of corporation's share of proceeds of sale of the stock to corporation on ground that citizens and others had suffered under the "Nazi Conspiracy" and that

Swiss corporation was creature of German corporation profiting therefrom. Trading with the Enemy Act, §§ 1 et seq., 9(a) as amended 50 U.S.C.App. §§ 1 et seq., 9(a); D.C. Code 1961, § 11-306. Kelberine v. Societe Internationale, etc., 363 F.2d 989, 1966 U.S. App. LEXIS 6580 (C.A.D.C. 1966), writ of certiorari denied by 385 U.S. 989, 87 S. Ct. 595, 17 L. Ed. 2d 450, 1966 U.S. LEXIS 38 (1966).

Sports production company had standing to bring action against bar located in the District of Columbia for alleged interception of satellite signal and retransmission without permission, despite bar's contention that company had transacted business in the D.C. without a certificate of authority pursuant to D.C. Code, where company's allegations were based on federal law, rather than D.C. Code. J & J Sports Prods. v. Rose's Dream, Inc., 818 F.Supp.2d 1, 2010 U.S. Dist. LEXIS 63092 (2010).

Foreign corporation which was engaged in sale of medical equipment in interstate commerce, which had no offices or warehouse facilities in District of Columbia, which solicited orders in District on one occasion through agent at national trade show, which pursued sales prospects gathered at trade show through personnel in California offices and which shipped equipment purchased directly to one buyer in District was not "transacting business" in District within meaning of statute requiring a foreign corporation transacting business in District to obtain certificate of authority prior to maintaining an action on any claim arising out of such business and thus was not required to secure such a certificate prior to maintaining action on contract for sale of equipment. D.C. Code §§ 29-933(b), 29-934f, 29-934f(a). Hargrove Displays, Inc. v. Rohe Scientific Corp., 316 A.2d 330, 1974 D.C. App. LEXIS 380 (1974).

Maryland corporation's assuming balance of third party's existing lease on certain property in District of Columbia in order to obtain third party as long-term tenant in its building in Maryland and Maryland corporation's subletting of property to several tenants in District of Columbia for remainder of term did not constitute transaction of business by Maryland corporation in District of Columbia and, although it had never been authorized to transact business in District of Columbia, it was not precluded from maintaining action for unpaid rents for District of Columbia property. D.C. Code 1961, §§ 29-933, 29-934f. 3 M Distributing Corp. v. Rugby Corp., 209 A.2d 790, 1965 D.C. App. LEXIS 179 (App. 1965).

§ 29-105.03. Foreign registration statement.

To register to do business in the District, a foreign filing entity or foreign

limited liability partnership shall deliver a foreign registration statement to the Mayor for filing. The statement shall be signed by the entity and state:

(1) The name of the foreign filing entity or foreign limited liability partnership and, if the name does not comply with § 29-103.01, an alternate name adopted pursuant to § 29-105.06(a);

(2) The type of entity and, if it is a limited partnership, whether it is a limited liability limited partnership;

(3) The entity's jurisdiction of formation;

(4) The street and mailing address of the principal office of the entity and, if the laws of its jurisdiction of formation require it to maintain an office in that jurisdiction, the street and mailing address of the office;

(5) The information required by § 29-104.04(a);

(6) The names and street and mailing addresses of a governor;

(7) A certificate, issued not later than 90 days prior to the filing date, by an authorized officer of the jurisdiction of formation, evidencing its existence as a filing entity;

(8) A brief statement of the business the entity proposes to do in the District; and

(9) A statement of the date it commenced or intends to do business in the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(30), 59 DCR 13171.)

Section references. — This section is referenced in § 29-104.01, § 29-105.02, § 29-105.04, § 29-105.11, and § 29-936.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “shall be signed by the entity and state” for “shall state” in the introductory language; and substituted “entity” for “foreign filing entity or foreign limited liability partnership” in (4).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-105.04. Amendment of foreign registration statement.

(a) A registered foreign entity shall deliver to the Mayor for filing an amendment to its foreign registration statement if there is a change in the:

(1) Name of the entity;

(2) Type of entity, including, if it is a limited partnership, whether the entity became or ceased to be a limited liability limited partnership;

(3) Jurisdiction of formation;

(4) Address or addresses required by § 29-105.03(4); or

(5) Information required by § 29-104.04(a).

(b) The requirements of § 29-105.03 for an original foreign registration statement apply to an amendment of a foreign registration statement under this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(31), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered foreign entity” for “foreign entity registered to do business in the District” in the introductory language of (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-105.05. Activities not constituting doing business.

(a) Without excluding other activities that do not have the intra-District presence necessary to constitute doing business in the District under this title, a foreign filing entity or foreign limited liability partnership shall not be considered to be doing business in the District under this title solely by reason of carrying on in the District any one or more of the following activities:

(1) Maintaining, defending, mediating, arbitrating, or settling an action or proceeding;

(2) Carrying on any activity concerning its internal affairs, including holding meetings of its interest holders or governors;

(3) Maintaining accounts in financial institutions;

(4) Maintaining offices or agencies for the transfer, exchange, and registration of interests of the entity or maintaining trustees or depositories with respect to those interests;

(5) Selling through independent contractors;

(6) Soliciting or obtaining orders by any means if the orders require acceptance outside the District before they become contracts;

(7) Creating or acquiring indebtedness, mortgages, or security interests in property;

(8) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts and holding, protecting, or maintaining property so acquired;

(9) Conducting an isolated transaction that is not in the course of similar transactions; and

(10) Doing business in interstate commerce.

(b) This section shall not apply in determining the contacts or activities that may subject a foreign filing entity or foreign limited liability partnership to service of process, taxation, or regulation under law of the District other than this title.

(c) A person does not do business in the District solely by being an interest holder or governor of a foreign entity that does business in the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(32), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “an action or proceeding” for “a proceeding” in (a)(1); substituted “of the entity” for “in the entity” in (a)(4); and added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-105.06. Noncomplying name of foreign entity.

(a) A registered foreign entity whose name does not comply with § 29-103.01 for an entity of its type shall not register to do business in the District until it adopts, for the purpose of doing business in the District, an alternate name that complies with § 29-103.01. A registered foreign entity that registers under an alternate name under this subsection need not comply with subchapter I-C of Chapter 48 of Title 47. After registering to do business in the District with an alternate name, a registered foreign entity may do business in the District under:

- (1) The alternate name;
- (2) Its entity name, with the addition of its jurisdiction of formation clearly identified; or
- (3) An assumed or fictitious name the entity is authorized to use under subchapter I-C of Chapter 48 of Title 47.

(b) If a registered foreign entity changes its name to one that does not comply with § 29-103.01, it shall not do business in the District until it complies with subsection (a) of this section by amending its registration to adopt an alternate name that complies with § 29-103.01.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(33), 59 DCR 13171.)

Section references. — This section is referenced in § 29-103.04, § 29-105.03, and § 29-105.10.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered foreign entity” for “foreign filing entity or foreign limited liability partnership” throughout the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings.
Similar names.

Actions and proceedings.

Where superintendent of corporations had no written regulations or statements of policy, practice or procedure governing determination whether one corporate name was deceptively similar to another, the court, on trial de novo following appeal from refusal to accept application to change corporate name on ground of deceptive similarities, was required to consider only the validity of the superintendent's subjective judgment.

D.C. Code §§ 29-933b, 29-948(a). *Eaton Yale & Towne, Inc. v. Goldstein*, 335 F. Supp. 1043, 1971 U.S. Dist. LEXIS 14012 (1971).

Similar names.

The names “Eaton Corporation” and “Eaton Associates, Inc.” are not deceptively similar; thus, applicant was entitled to change its corporate name from “Eaton Yale, & Towne, Inc.,” to “Eaton Corporation.” D.C. Code § 29-933b. *Eaton Yale & Towne, Inc. v. Goldstein*, 335 F. Supp. 1043, 1971 U.S. Dist. LEXIS 14012 (1971).

§ 29-105.07. Withdrawal of registration of registered foreign entity.

(a) A registered foreign entity may withdraw its registration by delivering a statement of withdrawal to the Mayor for filing. The statement of withdrawal shall be signed by the entity and state:

(1) The name of the foreign entity and the name of the jurisdiction under whose law it is formed;

(2) The type of entity, including, if it is a limited partnership, whether it is a limited liability limited partnership;

(3) That the entity is not doing business in the District and that it withdraws its registration to do business in the District;

(4) That the entity revokes the authority of its registered agent to accept service on its behalf in the District; and

(5) An address to which service of process may be made under subsection (b) of this section.

(b) After the withdrawal of the registration of an entity, service of process in any action or proceeding based on a cause of action arising during the time it was registered to do business in the District may be made pursuant to § 29-104.12.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(34), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered foreign entity” for “foreign entity registered to do business in the District” and “shall be signed by the entity and state” for “shall state” in the introductory language of (a); substituted “on its behalf in the District” for “on its behalf” in (a)(4); and substituted “action or proceeding” for “proceeding” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings.
Effect of withdrawal.

Actions and proceedings.

Whether foreign corporation, previously qualified, possessed different status when it filed in advance of suit for recovery of allegedly usurious interest a certificate of withdrawal was relevant issue in addition to question raised in first amended complaint as to whether statute allowing corporations to seek financing without regard to lawful interest rates barred a corporation’s action to recover usurious interest, and order dismissing second amended complaint which presented issue of foreign corporation’s status was a final and appealable order. D.C. Code 1961, §§ 29-904(h), 29-933a. *Indian Lake Estates, Inc. v.*

Ten Individual Defendants, 350 F.2d 435, 1965 U.S. App. LEXIS 4726 (C.A.D.C. 1965), writ of certiorari denied by 383 U.S. 947, 86 S. Ct. 1199, 16 L. Ed. 2d 209, 1966 U.S. LEXIS 2056 (1966).

Despite the lack of a certificate of authority from the District of Columbia, a foreign corporation can continue to rely on its corporate form to protect its officers from personal liability for corporate debt. *BDC Capital Props., L.L.C. v. Quan Trinh*, 307 F.Supp.2d 12, 2004 U.S. Dist. LEXIS 3525 (2004).

Effect of withdrawal.

Filing of certificate of withdrawal by foreign corporation previously qualified does not change status corporation’s contracts had acquired prior to filing. D.C. Code 1961, §§ 29-933a, 29-934d. *Indian Lake Estates, Inc. v. Ten Individual Defendants*, 350 F.2d 435, 1965 U.S.

App. LEXIS 4726 (C.A.D.C. 1965), writ of certiorari denied by 383 U.S. 947, 86 S. Ct. 1199, 16 L. Ed. 2d 209, 1966 U.S. LEXIS 2056 (1966).

Filing of certificate of withdrawal by foreign corporation did not change status previously acquired by corporation's contracts so that under statute allowing corporations to seek financing without regard to lawful interest rates its complaint for recovery of usurious interest

under prior contracts was barred. D.C. Code 1961, §§ 28-2701 to 28-2709, 28-2703, 28-2704, 29-904(h), 29-933a. *Indian Lake Estates, Inc. v. Ten Individual Defendants*, 350 F.2d 435, 1965 U.S. App. LEXIS 4726 (C.A.D.C. 1965), writ of certiorari denied by 383 U.S. 947, 86 S. Ct. 1199, 16 L. Ed. 2d 209, 1966 U.S. LEXIS 2056 (1966).

§ 29-105.08. Withdrawal deemed on conversion to domestic filing entity or domestic limited liability partnership.

A registered foreign entity that converts to any type of domestic filing entity or to a domestic limited liability partnership shall be deemed to have withdrawn its registration on the effective date of the conversion.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(35), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered foreign entity that” for “qualified foreign entity registered to do business in the District which”; and “domestic” for “domestic registered”.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-105.09. Withdrawal on dissolution or conversion to nonfiling entity other than limited liability partnership.

(a) A registered foreign entity that has dissolved and completed winding up or that has converted to a domestic or foreign nonfiling entity other than a limited liability partnership shall deliver a statement of withdrawal to the Mayor for filing. The statement shall be signed by the entity and state:

(1) The name of the foreign entity and the name of the jurisdiction under whose law it was formed before the dissolution or conversion;

(2) The type of entity that the foreign entity was before the dissolution or conversion;

(3) That the foreign entity surrenders its registration to do business in the District as a registered entity; and

(4) If the foreign entity has converted to a foreign nonfiling entity other than a foreign limited liability partnership:

(A) The type of nonfiling entity to which it has converted and the jurisdiction whose laws govern its internal affairs;

(B) That the foreign entity revokes the authority of its registered agent to accept service on its behalf; and

(C) A mailing address to which service of process may be made under subsection (b) of this section.

(b) After the withdrawal under this section of a foreign filing entity that has

converted to a foreign nonfiling entity is effective, service of process in any proceeding based on a cause of action arising during the time it was registered to do business in the District may be made pursuant to § 29-104.12.

(c) After the withdrawal under this section of a foreign filing entity that has converted to a domestic nonfiling entity other than a limited liability partnership is effective, service of process may be made on the nonfiling entity pursuant to § 29-104.12.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(36), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 in the introductory language of (a) substituted “registered foreign entity that has dissolved and completed winding up or that has converted” for “foreign entity registered to do business in the District which dissolves or converts” and “shall be signed by the entity and state” for “shall state”; and substituted “registered” for “qualified” in (a)(3).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-105.10. Transfer of registration.

(a) A registered foreign entity that merges into a nonregistered foreign entity or converts to a foreign entity required to register with the Mayor to do business in the District shall deliver to the Mayor for filing an application for transfer of registration. The application shall be signed by the entity and state the:

- (1) Name of the registered foreign entity before merger or conversion;
- (2) Type of entity it was before the merger or conversion;
- (3) Name of the applicant entity and, if the name does not comply with § 29-103.01, an alternate name adopted pursuant to § 29-105.06(a);
- (4) Type of applicant entity and its jurisdiction of formation; and
- (5) Following information regarding the applicant entity or to which it has been converted, if different than the information for the foreign entity before the merger or conversion:

(A) The street and mailing address of the principal office of the entity and, if the law of the entity’s jurisdiction of formation requires it to maintain an office in that jurisdiction, the street and mailing address of that office; and

(B) The information required by § 29-104.04(a).

(b) When an application for transfer of registration takes effect, the registration of the registered foreign entity to do business in the District shall be transferred without interruption to the entity into which it has merged or to which it has been converted.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(37), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-105.11. Termination of registration.

(a) The Mayor may terminate the registration of a registered foreign entity in the manner provided in subsections (b) and (c) of this section if the entity does not:

(1) Pay, not later than 60 days after the due date, any fee or penalty required to be paid to the Mayor under this chapter or law other than this title;

(2) Deliver to the Mayor for filing, not later than 60 days after the due date, the biennial report, if any, a biennial report;

(3) Have a registered agent as required by § 29-104.02; or

(4) Deliver to the Mayor for filing a statement of change under § 29-104.07 not later than 30 days after a change occurs in the name or address of the entity's registered agent.

(b) The Mayor shall terminate the registration of a registered foreign entity by noting the termination in the records of the Mayor and may deliver a copy of the notice or the information in the notation to the entity's registered agent in the District or, if the entity does not have a registered agent in the District, to the entity's principal office as designated in § 29-105.03(4). The notice shall state or the information in the notation shall include the:

(1) Effective date of the termination, which must be at least 60 days after the date the Mayor delivers the copy; and

(2) Grounds for termination under subsection (a) of this section.

(c) The authority of a registered foreign entity to do business in the District shall cease on the effective date of the notice of termination or notation filed under subsection (b) of this section unless, before that date, the entity cures each ground for termination stated in the notice or notation. If the entity cures each ground, the Mayor shall file a record so stating.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(38), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-105.12. Action by Attorney General.

The Attorney General for the District of Columbia may maintain an action to enjoin a foreign filing entity or foreign limited liability partnership from doing business in the District in violation of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

*Subchapter VI. Administrative Dissolution.***§ 29-106.01. Grounds.**

The Mayor may commence a proceeding under § 29-106.02 to dissolve a domestic filing entity administratively if the entity does not:

- (1) Pay any fee or penalty required to be paid to the Mayor not later than 5 months after it is due;
- (2) Deliver a biennial report to the Mayor not later than 5 months after it is due; or
- (3) Have a registered agent in the District for 60 days.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(39), 59 DCR 13171.)

Section references. — This section is referenced in § 29-106.02, § 29-610.01, and § 29-1208.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “tax” following “fee” in (a); and substituted “5 months” for “6 months” in (b).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES**In general.**

Purpose of revocation of articles of incorporation for failure to file annual reports is to prohibit corporation from enjoying privileges of that status when it has failed to perform its

resultant responsibilities; revocation is disability imposed on corporation as a penalty. D.C. Code § 29-938. *Accurate Constr. Co. v. Washington*, 378 A.2d 681, 1977 D.C. App. LEXIS 249 (1977).

§ 29-106.02. Procedure and effect.

(a) If the Mayor determines that one or more grounds exist under § 29-106.01 for dissolving a domestic filing entity, the Mayor shall serve the entity pursuant to § 29-104.12 with notice in a record of the Mayor’s determination.

(b) If a domestic filing entity, not later than 60 days after service of the notice required by subsection (a) of this section does not cure each ground for dissolution or demonstrate to the satisfaction of the Mayor that each ground determined by the Mayor does not exist, after the expiration of the 60-day period, the Mayor shall dissolve the entity administratively by signing a statement of dissolution that recites the grounds for dissolution and its effective date. The Mayor shall file the statement and serve a copy on the entity pursuant to § 29-104.12 and publish a notice of the statement on an appropriate website.

(c) A domestic filing entity that is dissolved administratively continues its existence as an entity, but shall not carry on any activities or affairs except as necessary to wind up its activities and affairs and liquidate its assets in the manner provided in its organic law or to apply for reinstatement under § 29-106.03.

(d) The administrative dissolution of a domestic filing entity shall not terminate the authority of its registered agent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(40), 59 DCR 13171.)

Section references. — This section is referenced in § 29-102.08, § 29-102.10, § 29-106.01, § 29-106.03, § 29-708.01, § 29-708.10, § 29-807.01, § 29-807.06, § 29-1012.02, § 29-1012.13, and § 29-1208.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “required by subsection (a) of this section does not cure” for “is effected under § 29-104.12, does not correct”, and deleted “the original of” following “statement” in (b); and in (c) substituted “any activities or affairs” for “any busi-

ness”, and “wind up its activities and affairs and liquidate its assets” for “wind up and liquidate its business and affairs”.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Effect of dissolution.
In general.
Waiver and estoppel.

Effect of dissolution.

District of Columbia corporation, articles of incorporation of which had been revoked for failure to pay required annual report fee, and which did not wish to be reinstated because it was no longer in business, could properly maintain an action which was instituted prior to revocation without paying annual report fee. D.C. Code §§ 29-931 to 29-931i, 29-938 to 29-938(d), 29-941(b). *M. A. S., Inc. v. Van Curler Broadcasting Corp.*, 357 F. Supp. 686, 1973 U.S. Dist. LEXIS 14061 (1973).

Construction corporation, whose articles of incorporation had been revoked for failure to file annual reports at time that deed of trust and promissory note were executed to secure payment to corporation for work performed, consequently lacked capacity to contract, and thus promissory note and deed of trust were void. D.C. Code § 29-938(a). *Accurate Constr. Co. v. Washington*, 378 A.2d 681, 1977 D.C. App. LEXIS 249 (1977).

Upon proclamation of revocation of construction corporation’s articles of incorporation for failure to file annual reports, corporation was shorn of all its powers and rights, save those expressly reserved by revocation statute for purpose of winding up its affairs, that is, collecting assets, discharging obligations, and distributing property. D.C. Code § 29-938(c, d). *Accurate Constr. Co. v. Washington*, 378 A.2d 681, 1977 D.C. App. LEXIS 249 (1977).

Statute, which prohibits maintaining of action by corporation until required corporate fees are paid, does not foreclose reinstatement

once the fees are paid, nor does it require immediate dismissal when nonpayment is brought to the court’s attention. D.C. Code §§ 12-301(7), 29-938(d), 29-941(b); D.C. Code SCR, Civil Rule 60(b)(1). *York & York Constr. Co. v. Alexander*, 296 A.2d 710, 1972 D.C. App. LEXIS 282 (1972).

In general.

Purpose of revocation of articles of incorporation for failure to file annual reports is to prohibit corporation from enjoying privileges of that status when it has failed to perform its resultant responsibilities; revocation is disability imposed on corporation as a penalty. D.C. Code § 29-938. *Accurate Constr. Co. v. Washington*, 378 A.2d 681, 1977 D.C. App. LEXIS 249 (1977).

A corporation whose charter has been revoked under § 29-587 ceases to be a legal entity, and title to real property cannot pass to it; a subsequent reinstatement of the charter cannot validate an attempted transfer of real property which took place during the period of revocation. *Federal Express Servs. Corp. v. American Fed’n of Community Credit Unions, Inc.*, 114 WLR 873 (Super. Ct. 1986).

Waiver and estoppel.

Tenants seeking to invalidate rent ceiling increases waived their right to challenge landlord’s certificate of authority due to business in District of Columbia by failing to raise issue in response to landlord’s original rent ceiling increase petitions; there was no evidence that landlord had intentionally withheld lapse of its certificate of authority, or that tenants’ failure to discover lapsed certificate was not result of their own negligence. *Tenants of Minnesota Gardens, Inc. v. District of Columbia Rental*

Housing Com., 570 A.2d 1194, 1990 D.C. App.
LEXIS 43 (1990).

§ 29-106.03. Reinstatement.

(a) A domestic filing entity that is dissolved administratively under § 29-106.02 may apply to the Mayor for reinstatement. The application shall be signed by the entity and state:

(1) The name of the entity at the time of its administrative dissolution and, if needed, a different name that satisfies § 29-103.01;

(2) The address of the principal office of the entity and the name and address of the registered agent;

(3) The effective date of the entity's administrative dissolution; and

(4) That the grounds for dissolution either did not exist or have been cured.

(b) To be reinstated, an entity shall pay all fees and penalties that were due to the Mayor at the time of its administrative dissolution and all fees and penalties that would have been due to the Mayor while the entity was dissolved administratively.

(c) If the Mayor determines that an application under subsection (a) of this section contains the information required by subsection (a) of this section, is satisfied that the information is correct, and determines that all payments required to be made to the Mayor by subsection (b) of this section have been made, the Mayor shall cancel the statement of dissolution and prepare a statement of reinstatement that states the Mayor's determination and the effective date of reinstatement, file the statement, and serve a copy on the entity pursuant to § 29-104.12.

(d) When reinstatement under this section is effective, it shall relate back to, and be effective, as of the effective date of the administrative dissolution, and the domestic filing entity shall resume carrying on its activities and affairs as if the administrative dissolution had never occurred, except for the rights of a person arising out of an act or omission in reliance on the dissolution before the person knew or had reason to know of the reinstatement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(41), 59 DCR 13171.)

Section references. — This section is referenced in § 29-106.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "shall be signed by the entity and state" for "shall state" in the introductory language of (a); substituted "cured" for "eliminated" in (a)(4); twice deleted "taxes," following "fees" in (b); in (c) substituted "an application under subsection (a) of this section" for "the application", and deleted "the original of following "file"; and

substituted "activities and affairs" for "business" in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions taken before reinstatement.
In general.
Maintenance of actions.

Actions taken before reinstatement.

Where articles of incorporation of construction corporation had been revoked for failure to file annual reports at time that deed of trust and promissory note were executed to secure payment to corporation for certain improvements to home, but corporation's articles of incorporation were reinstated ten years later and subsequent to initiation of action seeking cancellation of deed of trust and promissory note, deed and note were void notwithstanding reinstatement. D.C. Code § 29-938(a, c, d). *Accurate Constr. Co. v. Washington*, 378 A.2d 681, 1977 D.C. App. LEXIS 249 (1977).

A corporation whose charter has been revoked under § 29-587 ceases to be a legal entity, and title to real property cannot pass to it; a subsequent reinstatement of the charter cannot validate an attempted transfer of real property which took place during the period of revocation. *Federal Express Servs. Corp. v. American Fed'n of Community Credit Unions, Inc.*, 114 WLR 873 (Super. Ct. 1986).

In general.

Since the language in the statute governing the reinstatement of charters of for-profit corporations is, though not identical, not materially different from the statute governing the

reinstatement of charters of nonprofit corporations, the two statutes should be construed similarly. *Community Credit Union Services, Inc. v. Federal Express Services Corp.*, 534 A.2d 331, 1987 D.C. App. LEXIS 488 (1987).

Maintenance of actions.

District of Columbia statute providing that no corporation required to pay a fee, charge or penalty shall maintain in District of Columbia any action until all such fees and penalties have been paid in full was not intended to apply to a corporation whose articles of incorporation have been revoked for failure to pay annual report fees. D.C. Code § 29-941(b). *M. A. S., Inc. v. Van Curler Broadcasting Corp.*, 357 F. Supp. 686, 1973 U.S. Dist. LEXIS 14061 (1973).

Statute, which prohibits maintaining of action by corporation until required corporate fees are paid, does not foreclose reinstatement once the fees are paid, nor does it require immediate dismissal when nonpayment is brought to the court's attention. D.C. Code §§ 12-301(7), 29-938(d), 29-941(b); D.C. Code SCR, Civil Rule 60(b)(1). *York & York Constr. Co. v. Alexander*, 296 A.2d 710, 1972 D.C. App. LEXIS 282 (1972).

Reinstatement of action by corporation upon payment of required corporate fees would restore action to its predismissal status with respect to statute of limitations. D.C. Code §§ 12-301(7), 29-938(d), 29-941(b); D.C. Code SCR, Civil Rule 60(b)(1). *York & York Constr. Co. v. Alexander*, 296 A.2d 710, 1972 D.C. App. LEXIS 282 (1972).

§ 29-106.04. Judicial review of denial of reinstatement.

(a) If the Mayor denies a domestic filing entity's application for reinstatement following administrative dissolution, the Mayor shall serve the entity pursuant to § 29-104.12 with a notice in a record that explains the reason or reasons for denial.

(b) An entity may seek judicial review of denial of reinstatement in the Superior Court not later than 30 days after service of the notice of denial.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Scope of review.

Where superintendent of corporations had no written regulations or statements of policy, practice or procedure governing determination whether one corporate name was deceptively

similar to another, the court, on trial de novo following appeal from refusal to accept application to change corporate name on ground of deceptive similarities, was required to consider only the validity of the superintendent's subject-

tive judgment. D.C. Code §§ 29-933b, -29- 335 F. Supp. 1043, 1971 U.S. Dist. LEXIS 948(a). Eaton Yale & Towne, Inc. v. Goldstein, 14012 (1971).

Subchapter VII. Miscellaneous Provisions.

§ 29-107.01. Reservation of power to amend or repeal.

(a) The Council may amend or repeal all or part of this title at any time and all domestic and foreign entities subject to this title shall be governed by the amendment or repeal.

(b) The following rules apply to a corporation formed in the District before the effective date of the District of Columbia Business Corporations Act, approved June 8, 1954 (Pub. L. 83-389; 68 Stat. 179), or the District of Columbia Nonprofit Corporation Act, approved August 6, 1962 (Pub. L. No. 87-569; 76 Stat. 265), which did not elect to avail itself of the provisions of those acts:

(1) Until January 1, 2014, the corporation shall be governed by the statute under which it was formed as if that statute had not been repealed by this act.

(2) Before January 1, 2014, the corporation may elect to avail itself of the provisions of this title by adopting a resolution making this election, and by delivering to the Mayor for filing a copy of the resolution and a copy of the corporation's articles of incorporation. Upon filing by the Mayor of the resolution and articles, the corporation shall be deemed to exist under this title. The corporation shall file a biennial report, as required by § 29-102.11, by the next April 1 following the date of delivery of the resolution and articles to the Mayor for filing.

(3) A corporation that has not previously elected to avail itself of the provisions of this title by April 1, 2014, pursuant to paragraph (2) of this subsection and desires to do business in the District is subject to this title to the extent that it shall be required to file a biennial report under § 29-102.11, a copy of its articles of incorporation, and the names and addresses of its current directors and officers and designate a registered agent. The corporation shall file biennial reports under § 29-102.11 every 2 years thereafter

(4) Any corporation that does not fully comply with either paragraph (2) or (3) of this subsection shall become otherwise subject to this title by January 1, 2014 and is thereafter barred from asserting that it is not subject to this title.

(c)(1) Notwithstanding subsections (a) and (b) of this section, any nonprofit corporation chartered by a special act of Congress may elect to become a domestic nonprofit corporation under this title or to register as a corporation chartered by special act of Congress.

(2) The corporation may elect to avail itself of the provisions of this title by adopting a resolution making this election, and by delivering to the Mayor for filing a copy of the resolution and a copy of the corporation's congressional charter and subsequent amendments and by filing restated articles of incorporation. Upon filing by the Mayor of the resolution and articles, the corporation shall be deemed to exist under this title. In the event such election is

made, to the extent the provisions of this title, including chapter 4 (the Nonprofit Corporations Act of 2010), are inconsistent with such nonprofit corporation's congressional charter or its bylaws, the provisions of such nonprofit corporation's congressional charter and bylaws shall prevail.

(3) If the corporation does not elect to avail itself to the provisions of this title pursuant to paragraph (2) of this subsection, the corporation shall register with the Mayor by delivering a statement that contains the corporation's name, date of formation, name and address of one governor, name and address of its registered agent and copy of its federal charter and subsequent amendments by January 1, 2014. Once registered, the corporation shall file biennial reports as required by section § 29-102.11 and maintain its registered agent as required by § 29-104.04.

(4) Neither the issuance of a certificate of election pursuant to paragraph (2) of this subsection nor the issuance of certificate of registration pursuant to paragraph (3) of this subsection to a corporation created under the provisions of a special act of Congress, nor the adoption of any amendment pursuant to this title, shall release or terminate any duty or obligation expressly imposed upon any such corporation under and by virtue of the special act of Congress under which it was created or any amendment made thereto, nor enlarge any right, power, or privilege granted any such corporation by such special act except to the extent that such right, power, or privilege might have been included in the articles of a corporation organized under this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a)(42), 59 DCR 13171.)

Section references. — This section is referenced in § 29-314.01 and § 29-414.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (b); and added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-101.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-107.02. Supplemental principles of law.

Unless displaced by particular provisions of this title, the principles of law and equity shall supplement this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-107.03. Uniformity or consistency of application and construction.

In applying and construing the chapters of this title based on uniform or model acts, consideration shall be given to the need to promote uniformity or

consistency of the law with respect to its subject matter among states that enact it.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-107.04. Relation to Electronic Signatures in Global and National Commerce Act.

This title shall modify, limit, and supersede the federal Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 464; 15 U.S.C. § 7001 et seq.), (“Act”), but shall not modify, limit, or supersede section 101(c) of the Act, or authorize electronic delivery of any of the notices described in section 103(b) of the Act.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-107.05. Savings clause.

The repeal of a law by this title shall not affect:

- (1) The operation of the law or any action taken under it before its repeal;
- (2) Any ratification, right, remedy, privilege, obligation, or liability acquired, accrued, or incurred under the statute before its repeal;
- (3) Any violation of the law or any penalty, forfeiture, or punishment incurred because of the violation before its repeal; or
- (4) Any proceeding, reorganization, or dissolution commenced under the law before its repeal, and the proceeding, reorganization, or dissolution may be completed in accordance with the statute as if it had not been repealed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CHAPTER 2. ENTITY TRANSACTIONS.

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*Subchapter I. General Provisions.***§ 29-201.01. Short title.**

This chapter may be cited as the “Entity Transactions Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-201.02. Definitions.

For the purpose of this chapter, the term:

(1) “Acquired entity” means the entity, all of one or more classes or series of interests in which are acquired in an interest exchange.

(2) “Acquiring entity” means the entity that acquires all of one or more classes or series of interests of the acquired entity in an interest exchange.

(3) “Approve” means, in the case of an entity, for its governors and interest holders to take whatever steps are necessary under its organic rules, organic law, and other law to:

(A) Propose a transaction subject to this chapter;

(B) Adopt and approve the terms and conditions of the transaction; and

(C) Conduct any required proceedings or otherwise obtain any required votes or consents of the governors or interest holders.

(4) “Conversion” means a transaction authorized by subchapter IV of this chapter.

(5) “Converted entity” means the converting entity as it continues in existence after a conversion.

(6) “Converting entity” means the domestic entity that approves a plan of conversion pursuant to § 29-204.03 or the foreign entity that approves a conversion pursuant to the law of its jurisdiction of formation.

(7) “Domestic entity” means an entity whose internal affairs are governed by the law of the District.

(8) “Domesticated entity” means the domesticating entity as it continues in existence after a domestication.

(9) “Domesticating entity” means the domestic entity that approves a plan of domestication pursuant to § 29-205.03 or the foreign entity that approves a domestication pursuant to the law of its jurisdiction of formation.

(10) “Domestication” means a transaction authorized by subchapter V of this chapter.

(11) “Interest exchange” means a transaction authorized by subchapter III of this chapter.

(12) “Interest holder liability” means:

(A) Personal liability for a liability of an entity that is imposed on a person:

(i) Solely by reason of the status of the person as an interest holder; or

(ii) By the organic rules of the entity pursuant to a provision of the organic law authorizing the organic rules to make one or more specified interest holders or categories of interest holders liable in their capacity as interest holders for all or specified liabilities of the entity; or

(B) An obligation of an interest holder under the organic rules of an entity to contribute to the entity.

(13) “Merger” means a transaction in which 2 or more merging entities are combined into a surviving entity pursuant to a filing with the Mayor.

(14) “Merging entity” means an entity that is a party to a merger and exists immediately before the merger becomes effective.

(15) “Plan” means a plan of merger, interest exchange, conversion, or domestication.

(16) “Plan of conversion” means a plan under § 29-204.02.

(17) “Plan of domestication” means a plan under § 29-205.02.

(18) “Plan of interest exchange” means a plan under § 29-203.02.

(19) “Plan of merger” means a plan under § 29-202.02.

(20) “Protected agreement” means:

(A) A record evidencing indebtedness and any related agreement in effect on the effective date of this chapter;

(B) An agreement that is binding on an entity on the effective date of this chapter;

(C) The organic rules of an entity in effect on the effective date of this chapter; or

(D) An agreement that is binding on any of the governors or interest holders of an entity on the effective date of this chapter.

(21) “Statement of conversion” means a statement under § 29-204.05.

(22) “Statement of domestication” means a statement under § 29-205.05.

(23) “Statement of interest exchange” means a statement under § 29-203.05.

(24) “Statement of merger” means a statement under § 29-202.05.

(25) “Surviving entity” means the entity that continues in existence after, or is created by, a merger under subchapter 2 of this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(1), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council

and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-201.03. Relationship of chapter to other laws.

(a) Unless displaced by particular provisions of this chapter, the principles of law and equity supplement this chapter.

(b) This chapter shall not authorize an act prohibited by, and does not affect the application or requirements of, law other than this chapter.

(c) A transaction effected under this chapter shall not create or impair any right or obligation on the part of a person under a provision of the law of the District other than this chapter relating to a change in control, takeover, business combination, control-share acquisition, or similar transaction involving a domestic merging, acquired, converting, or domesticating corporation unless:

(1) If the corporation does not survive the transaction, the transaction satisfies any requirements of the provision; or

(2) If the corporation survives the transaction, the approval of the plan is by a vote of the shareholders or directors which would be sufficient to create or impair the right or obligation directly under the provision.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-201.04. Required notice or approval.

(a) A domestic or foreign entity that is required to give notice to, or obtain the approval of, a governmental agency or District Government Official to be a party to a merger shall give the notice, or obtain the approval, to be a party to an interest exchange, conversion, or domestication.

(b) Property held for a charitable purpose under the law of the District by a domestic or foreign entity immediately before a transaction under this chapter becomes effective shall not, as a result of the transaction, be diverted from the objects for which it was donated, granted, devised, or otherwise transferred, unless, to the extent required by or pursuant to the law of the District concerning cy pres or other law dealing with nondiversion of charitable assets, the entity obtains an appropriate order of the Superior Court specifying the disposition of the property.

(c) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a merging entity that is not the surviving entity and that takes effect or remains payable after the merger inures to the surviving entity. A trust obligation that would govern property if transferred to the nonsurviving entity applies to property that is transferred to the surviving entity under this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(2), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “District Government official” for “officer” in (a); substituted “devised, or otherwise transferred” for “or devised” in (b); and added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-201.05. Status of filings.

A filing under this chapter signed by a domestic entity shall become part of the public organic record of the entity if the entity’s organic law provides that similar filings under that law become part of the public organic record of the entity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(3), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 twice substituted “record” for “document.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-201.06. Nonexclusivity.

The fact that a transaction under this chapter produces a certain result shall not preclude the same result from being accomplished in any other manner permitted by law other than this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-201.07. Reference to external facts.

A plan may refer to facts ascertainable outside of the plan if the manner in which the facts will operate upon the plan is specified in the plan. The facts may include the occurrence of an event or a determination or action by a person, whether or not the event, determination, or action is within the control of a party to the transaction.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-201.08. Alternative means of approval of transactions.

Except as otherwise provided in the organic law or organic rules of a domestic entity, approval of a transaction under this chapter by the unanimous vote or consent of its interest holders shall satisfy this chapter for approval of the transaction.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-201.09. Appraisal rights.

(a) An interest holder of a domestic merging, acquired, converting, or domesticating entity shall be entitled to appraisal rights in connection with the transaction if the interest holder would have been entitled to appraisal rights under the entity's organic law in connection with a merger in which the interest of the interest holder was changed, converted, or exchanged unless:

(1) The organic law permits the organic rules to limit the availability of appraisal rights; and

(2) The organic rules provide such limit.

(b) An interest holder of a domestic merging, acquired, converting, or domesticating entity shall be entitled to contractual appraisal rights in connection with a transaction under this chapter to the extent provided:

(1) In the entity's organic rules;

(2) In the plan; or

(3) In the case of a business corporation, by action of its governors.

(c) If an interest holder is entitled to contractual appraisal rights under subsection (b) of this section and the entity's organic law does not provide procedures for the conduct of an appraisal rights proceeding, subchapter XI of

Chapter 3 of this title shall apply to the extent practicable or as otherwise provided in the entity's organic rules or the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-202.06, § 29-203.06, § 29-204.06, and § 29-205.06.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter II. Merger.

§ 29-202.01. Merger authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter:

(1) One or more domestic entities may merge with one or more domestic or foreign entities into a domestic or foreign surviving entity; and

(2) Two or more foreign entities may merge into a domestic entity.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities a foreign entity may be a party to a merger under this subchapter or may be the surviving entity in such merger if the merger is authorized by the law of the foreign entity's jurisdiction of formation.

(c) This subchapter shall not apply to a transaction under:

- (1) Subchapter IX of Chapter 3 of this title;
- (2) Subchapter IX of Chapter 4 of this title;
- (3) Section 29-512;
- (4) Subchapter IX of Chapter 6 of this title;
- (5) Subchapter X of Chapter 7 of this title;
- (6) Subchapter IX of Chapter 8 of this title;
- (7) Subchapter XV of Chapter 10 of this title;
- (8) Section 29-1126; or
- (9) Subchapter VII of Chapter 12 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(4), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "formation" for "organization" in (b); and substituted "Subchapter VII" for "Subchapter XII" in (c)(9).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-202.02. Plan of merger.

(a) A domestic entity may become a party to a merger under this subchapter by approving a plan of merger. The plan shall be in a record and contain:

(1) As to each merging entity, its name, jurisdiction of formation, and type;

(2) If the surviving entity is to be created in the merger, a statement to that effect and its name, jurisdiction of formation, and type;

(3) The manner of converting the interests in each party to the merger into interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing;

(4) If the surviving entity exists before the merger, any proposed amendments to its public organic record or to its private organic rules that are, or are proposed to be, in a record;

(5) If the surviving entity is to be created in the merger, its proposed public organic record, if any, and the full text of its private organic rules that are proposed to be in a record;

(6) The other terms and conditions of the merger; and

(7) Any other provision required by the law of a merging entity's jurisdiction of formation or the organic rules of a merging entity.

(b) A plan of merger may contain any other provision not prohibited by law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(6), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation” for “organization” in (a)(1), (a)(2), and (a)(7); substituted “money” for “cash” in (a)(3) and substituted “record” for “document” in (a)(4) and (a)(5).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Section 2(b)(4)(B) of D.C. Law 19-210 purported to amend § 29-202.02(c). Because this section does not have a subsection (c), the amendment could not be implemented.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-202.03. Approval of merger.

(a) A plan of merger shall not be effective unless it has been approved:

(1) By a domestic merging entity:

(A) In accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation; or

(B) If its organic law or organic rules do not provide for approval of a merger described in subparagraph (A)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic merging entity that will have interest holder liability for debts, obligations, and other liabilities that arise after the merger becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity provide in a record for the approval of an merger in which some or all of its interest holders become subject to

interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A merger under this chapter involving a foreign merging is not effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(7), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “debts, obligations, and other liabilities” for “liabilities” in (a)(2); and in (b), added “under this chapter” following “merger”, and substituted “is not effective” for “shall not be effective”, and “formation” for “organization.”

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-202.04. Amendment or abandonment of plan of merger.

(a) A plan of merger may be amended only with the consent of each party to the plan, except as otherwise provided in the plan. A domestic merging entity may approve an amendment of a plan of merger:

(1) In the same manner as the plan was approved, if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the merger shall be entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing, to be received by the interest holders of any party to the plan;

(B) The public organic record, if any, or private organic rules of the surviving entity that will be in effect immediately after the merger becomes effective, except for changes that do not require approval of the interest holders of the surviving entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan, if the change would adversely affect the interest holder in any material respect.

(b) After a plan of merger has been approved and before a statement of merger becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, by a domestic merging entity in the same manner as the plan was approved.

(c) If a plan of merger is abandoned after a statement of merger has been delivered to the Mayor for filing and before the statement of merger becomes effective, a statement of abandonment, signed by a party to the plan, shall be

delivered to the Mayor for filing before the time the statement of merger becomes effective. The statement of abandonment shall be effective upon filing by the Mayor, and the merger shall be abandoned and shall not become effective. The statement of abandonment shall contain:

- (1) The name of each party to the plan of merger;
- (2) The date on which the statement of merger was filed; and
- (3) A statement that the merger has been abandoned in accordance with this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(8), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-202.05. Statement of merger; effective date.

(a) A statement of merger shall be signed on behalf of each merging entity and delivered to the Mayor for filing.

(b) A statement of merger shall contain:

(1) The name, jurisdiction of formation, and type of entity of each merging entity that is not the surviving entity;

(2) The name, jurisdiction of formation, and type of entity of the surviving entity;

(3) If the statement of merger is not to be effective upon filing, the later date and time on which it will become effective, which may not be more than 90 days after the date of filing;

(4) A statement that the merger was approved by each domestic merging entity, if any, in accordance with this subchapter and by each foreign merging entity, if any, in accordance with the law of its jurisdiction of formation;

(5) If the surviving entity exists before the merger and is a domestic filing entity, any amendment to its public organic record approved as part of the plan of merger;

(6) If the surviving entity is created by the merger and is a domestic filing entity, its public organic document as an attachment;

(7) If the surviving entity is created by the merger and is a domestic limited liability partnership, its statement of qualification as an attachment; and

(8) If the surviving entity is a foreign entity that is not a registered foreign entity, a mailing address to which process may be served pursuant to § 29-202.06(e).

(c) In addition to the requirements of subsection (b) of this section, a statement of merger may contain any other provision not prohibited by law.

(d) If the surviving entity is a domestic entity, its public organic record, if any, shall satisfy the requirements of the law of the District, except that it does

not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) A plan of merger that is signed on behalf of all of the merging entities and meets all of the requirements of subsection (b) of this section may be delivered to the Mayor for filing instead of a statement of merger and, upon filing by the Mayor, shall have the same effect. If a plan of merger is filed as provided in this subsection, references in this chapter to a statement of merger refer to the plan of merger filed under this subsection.

(f) A statement of merger shall be effective upon the date and time of filing or the later date and time specified in the statement of merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(9), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (a) and (e); substituted “formation” for “organization” and “and type of entity” for “type” throughout (b); substituted “record” for “document” in (b)(5) and throughout (d); substituted “registered” for “qualified” in (b)(8); and added “by the Mayor” after “filing” in (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-202.06. Effect of merger.

(a) When a merger under this chapter becomes effective:

(1) The surviving entity shall continue or come into existence;

(2) Each merging entity that is not the surviving entity shall cease to exist;

(3) All property of each merging entity shall vest in the surviving entity without transfer, reversion, or impairment;

(4) All debts, obligations, and other liabilities of each merging entity shall be the debts, obligations, and other liabilities of the surviving entity;

(5) Except as otherwise provided in law other than this chapter or the plan of merger, all of the rights, privileges, immunities, powers, and purposes of each merging entity shall vest in the surviving entity;

(6) If the surviving entity exists before the merger:

(A) All of its property shall continue to be vested in it without transfer, reversion or impairment;

(B) It shall remain subject to all of its debts, obligations, and other liabilities; and

(C) All of its rights, privileges, immunities, powers, and purposes shall continue to be vested in it;

(7) The name of the surviving entity may be substituted for the name of any merging entity that is a party to any pending action or proceeding;

(8) If the surviving entity exists before the merger:

(A) Its public organic record, if any, shall be amended as provided in the statement of merger and is effective; and

(B) Its private organic rules that are to be in a record, if any, shall be amended to the extent provided in the plan of merger and are binding on and enforceable by:

(i) Its interest holders; and

(ii) In the case of a surviving entity that is not a business corporation or a nonprofit corporation, any other person that is a party to an agreement that is part of the surviving entity's private organic rules;

(9) If the surviving entity is created by the merger:

(A) Its public record document, if any, shall be effective and shall be binding on its interest holders; and

(B) Its private organic rules shall be effective and shall be binding on and enforceable by:

(i) Its interest holders; and

(ii) In the case of a surviving entity that is not a business corporation or a nonprofit corporation, any other person that was a party to an agreement that was part of the organic rules of a merging entity if that person has agreed to be a party to an agreement that is part of the surviving entity's private organic rules; and

(10) The interests in each merging entity that are to be converted in the merger shall be converted, and the interest holders of those interests shall be entitled only to the rights provided to them under the plan of merger and to any appraisal rights they have under § 29-201.09 and the merging entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of a merging entity, a merger under this chapter does not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the merging entity.

(c) When a merger under this chapter becomes effective, a person that did not have interest holder liability with respect to any of the merging entities and that becomes subject to interest holder liability with respect to a domestic entity as a result of a merger has interest holder liability only to the extent provided by the organic law of the entity and only for those debts, obligations, and other liabilities that arise after the merger becomes effective.

(d) When a merger becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic merging entity with respect to which the person had interest holder liability shall be as follows:

(1) The merger shall not discharge any interest holder liability under the organic law of the domestic merging entity to the extent the interest holder liability arose before the merger became effective;

(2) The person shall have [sic] not have interest holder liability under the organic law of the domestic merging entity for any liability that arises after the merger becomes effective;

(3) The organic law of the domestic merging entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the merger had not occurred and the surviving entity were the domestic merging entity; and

(4) The person shall have whatever rights of contribution from any other person as are provided by law other than this title or the organic rules of the

domestic merging entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the merger had not occurred.

(e) When a merger under this chapter becomes effective, a foreign entity that is the surviving entity may be served with process in the District for the collection and enforcement of any liabilities of a domestic merging entity in the manner provided in § 29-104.12.

(f) When a merger under this chapter becomes effective, the registration to do business in the District of any foreign merging entity that is not the surviving entity is canceled.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(10), 59 DCR 13171.)

Section references. — This section is referenced in § 29-202.05 and § 29-406.58.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter III. Interest Exchange.

§ 29-203.01. Interest exchange authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter:

(1) A domestic entity may acquire all of one or more classes or series of interests of another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, cash, or other property, or any combination of the foregoing; or

(2) All of one or more classes or series of interests of a domestic entity may be acquired by another domestic or foreign entity in exchange for interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities a foreign entity may be the acquiring or acquired entity in an interest exchange under this subchapter if the interest exchange is authorized by the law of the foreign entity's jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity, but does not refer to an interest exchange, the provision shall apply to an interest exchange in which the domestic entity is the acquired entity as if the interest exchange were a merger until the provision is amended after the effective date of this chapter.

(d) This subchapter shall not apply to a transaction under:

(1) Subchapter IX of Chapter 3 of this title; or

(2) Section 29-609.05, to the extent inconsistent with that section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(11), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “money” for “cash” in (a)(2); and substituted “formation” for “organization” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-203.02. Plan of interest exchange.

(a) A domestic entity may be the acquired entity in an interest exchange under this subchapter by approving a plan of interest exchange. The plan shall be in a record and contain:

- (1) The name and type of entity of the acquired entity;
- (2) The name, jurisdiction of formation, and type of the acquiring entity;
- (3) The manner of converting the interests in the acquired entity into interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing;
- (4) Any proposed amendments to the public organic record, if any, or private organic rules that are, or are proposed to be, in a record of the acquired entity;
- (5) The other terms and conditions of the interest exchange; and
- (6) Any other provision required by the law of the District or the organic rules of the acquired entity.

(b) A plan of interest exchange may contain any other provision not prohibited by law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(12), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 inserted “of entity” following “type” in (a)(1); substituted “formation, and type” for “organization, and type” in (a)(2); substituted “money” for “cash” in (a)(3); and substituted “record, if any” for “document” in (a)(4).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-203.03. Approval of interest exchange.

(a) A plan of interest exchange shall not be effective unless it has been approved:

- (1) By a domestic acquired entity:
 - (A) In accordance with the requirements, if any, in its organic law and organic rules for approval of an interest exchange;
 - (B) Except as otherwise provided in subsection (d) of this section, if its organic law or organic rules do not provide for approval of an interest exchange

in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger, as if the interest exchange were a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation, as if the interest exchange were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of an interest exchange or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic acquired entity that will have interest holder liability for liabilities that arise after the interest exchange becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity provide in a record for the approval of an interest exchange or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) An interest exchange involving a foreign acquired entity shall not be effective unless it is approved by the foreign entity in accordance with the law of the foreign entity's jurisdiction of formation.

(c) Except as otherwise provided in its organic law or organic rules, the interest holders of the acquiring entity shall not be required to approve the interest exchange.

(d) A provision of the organic law of a domestic acquired entity that would permit a merger between the acquired entity and the acquiring entity to be approved without the vote or consent of the interest holders of the acquired entity because of the percentage of interests in the acquired entity held by the acquiring entity shall not apply to approval of an interest exchange under subsection (a)(1)(B) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(13), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation” for “organization” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-203.04. Amendment or abandonment of plan of interest exchange.

(a) A plan of interest exchange may be amended only with the consent of

each party to the plan, except as otherwise provided in the plan. A domestic acquired entity may approve an amendment of a plan of interested exchange:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the interest exchange shall be entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing, to be received by any of the interest holders of the acquired entity under the plan;

(B) The public organic record or private organic rules of the acquired entity that will be in effect immediately after the interest exchange becomes effective, except for changes that do not require approval of the interest holders of the acquired entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of interest exchange has been approved by a domestic acquired entity and before a statement of interest exchange becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of interest exchange is abandoned after a statement of interest exchange has been delivered to the Mayor for filing and before the statement of interest exchange becomes effective, a statement of abandonment, signed by a party to the plan, shall be delivered to the Mayor for filing before the time the statement of interest exchange becomes effective. The statement of abandonment shall be effective upon filing by the Mayor, and the interest exchange shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the acquired entity;

(2) The date on which the statement of interest exchange was filed; and

(3) A statement that the interest exchange has been abandoned in accordance with this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(14), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (a) and (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-203.05. Statement of interest exchange; effective date.

(a) A statement of interest exchange shall be signed on behalf of a domestic acquired entity and delivered to the Mayor for filing.

(b) A statement of interest exchange shall contain:

(1) The name and type of the acquired entity;

(2) The name, jurisdiction of formation, and type of entity of the acquiring entity;

(3) If the statement of interest exchange is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) A statement that the plan of interest exchange was approved by the acquired entity in accordance with this subchapter; and

(5) Any amendments to the acquired entity's public organic record approved as part of the plan of interest exchange.

(c) In addition to the requirements of subsection (b) of this section, a statement of interest exchange may contain any other provision not prohibited by law.

(d) A plan of interest exchange that is signed on behalf of a domestic acquired entity and meets all of the requirements of subsection (b) of this section may be delivered to the Mayor for filing instead of a statement of interest exchange and upon filing by the Mayor has the same effect. If a plan of interest exchange is filed as provided in this subsection, references in this chapter to a statement of interest exchange shall refer to the plan of interest exchange filed under this subsection.

(e) A statement of interest exchange shall be effective upon the date and time of filing or the later date and time specified in the statement of interest exchange.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(15), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "delivered to the Mayor for filing" for "filed with the Mayor" in (a) and (d); substituted "formation, and type of entity" for "organization, and type" in (b)(2); substituted "record" for "document" in (b)(5); and added "by the Mayor" following "filing" in the second sentence of (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-203.06. Effect of interest exchange.

(a) When an interest exchange becomes effective:

(1) The interests in the acquired entity that are the subject of the interest exchange shall cease to exist or are converted or exchanged, and the interest holders of those interests shall be entitled only to the rights provided to them under the plan of interest exchange and to any appraisal rights they have under § 29-201.09 and the acquired entity's organic law;

(2) The acquiring entity shall be the interest holder of the interests in the acquired entity stated in the plan of interest exchange to be acquired by the acquiring entity;

(3) The public organic record, if any, of the acquired entity shall be amended as provided in the statement of interest exchange and shall be binding on its interest holders; and

(4) The private organic rules of the acquired entity that are to be in a record, if any, shall be amended to the extent provided in the plan of interest exchange and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of an acquired entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the acquired entity's private organic rules.

(b) Except as otherwise provided in the organic law or organic rules of the acquired entity, the interest exchange shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the acquired entity.

(c) When an interest exchange becomes effective, a person that did not have interest holder liability with respect to the acquired entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the interest exchange shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the interest exchange becomes effective.

(d) When an interest exchange becomes effective, the interest holder liability of a person that ceases to hold an interest in a domestic acquired entity with respect to which the person had interest holder liability shall be as follows:

(1) The interest exchange shall not discharge any interest holder liability under the organic law of the domestic acquired entity to the extent the interest holder liability arose before the interest exchange became effective;

(2) The person shall not have interest holder liability under the organic law of the domestic acquired entity for any liability that arises after the interest exchange becomes effective;

(3) The organic law of the domestic acquired entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the interest exchange had not occurred; and

(4) The person has whatever rights of contribution from any other person as are provided by law other than this title or the organic rules of the domestic acquired entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the interest exchange had not occurred.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(16), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “record” for “document” in (a)(3); and substi-

tuted “law other than this title or the” for “the organic law or” in (d)(4).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Subchapter IV. Conversion.

§ 29-204.01. Conversion authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter, a domestic entity may become:

- (1) A domestic entity of a different type; or
- (2) A foreign entity of a different type if the conversion is authorized by the law of the foreign jurisdiction.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities, a foreign entity may become a domestic entity of a different type if the conversion is authorized by the law of the foreign entity's jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a conversion, the provision shall apply to a conversion of the entity as if the conversion were a merger until the provision is amended after the effective date of this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(17), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation” for “organization” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-204.02. Plan of conversion.

(a) A domestic entity may convert to a different type of entity under this subchapter by approving a plan of conversion. The plan shall be in a record and contain:

- (1) The name and type of the converting entity;
- (2) The name, jurisdiction of formation, and type of entity of the converted entity;
- (3) The manner of converting the interests in the converting entity into interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing;
- (4) The proposed public organic record of the converted entity if it will be a filing entity;
- (5) The full text of the private organic rules of the converted entity that are proposed to be in a record;
- (6) The other terms and conditions of the conversion; and
- (7) Any other provision required by the law of the District or the organic rules of the converting entity.

(b) A plan of conversion may contain any other provision not prohibited by law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(18), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02 and § 29-1001.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation, and type of entity” for “organization and type” in (a)(2); substituted “money” for “cash” in (a)(3); and substituted “record” for “document” in (a)(4).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-204.03. Approval of conversion.

(a) A plan of conversion shall not be effective unless it has been approved:

(1) By a domestic converting entity:

(A) In accordance with the requirements, if any, in its organic rules for approval of a conversion;

(B) If its organic rules do not provide for approval of a conversion, in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger, as if the conversion were a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation as if the conversion were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of a conversion or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic converting entity that will have interest holder liability for liabilities that arise after the conversion becomes effective, unless, in the case of an entity that is not a business or nonprofit corporation:

(A) The organic rules of the entity provide in a record for the approval of a conversion or a merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A conversion of a foreign converting entity shall not be effective unless it is approved by the foreign entity in accordance with the law of the foreign entity’s jurisdiction of formation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(19), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013

amendment by D.C. Law 19-210 substituted “formation” for “organization” in (b).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-204.04. Amendment or abandonment of plan of conversion.

(a) A plan of conversion of a domestic converting entity may be amended:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the conversion is entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing, to be received by any of the interest holders of the converting entity under the plan;

(B) The public organic record or private organic rules of the converted entity that will be in effect immediately after the conversion becomes effective, except for changes that do not require approval of the interest holders of the converted entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of conversion has been approved by a domestic converting entity and before a statement of conversion becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of conversion is abandoned after a statement of conversion has been delivered to the Mayor for filing and before the statement of conversion becomes effective, a statement of abandonment, signed on behalf of the entity, shall be delivered to the Mayor for filing before the time the statement of conversion becomes effective. The statement of abandonment shall be effective upon filing by the Mayor, and the conversion shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the converting entity;

(2) The date on which the statement of conversion was filed; and

(3) A statement that the conversion has been abandoned in accordance with this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(20), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “money” for “cash” in (a)(2)(A); substituted “re-

cord” for “document” in (a)(2)(B); and in (c), twice substituted “delivered to the Mayor for filing” for “filed with the Mayor”, substituted

“the statement of conversion” for “the filing”, and substituted “upon filing by the Mayor” for “upon filing.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-204.05. Statement of conversion; effective date.

(a) A statement of conversion shall be signed on behalf of the converting entity and delivered to the Mayor for filing.

(b) A statement of conversion shall contain:

(1) The name, jurisdiction of formation, and type of entity of the converting entity;

(2) The name, jurisdiction of formation, and type of entity of the converted entity;

(3) If the statement of conversion is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) If the converting entity is a domestic entity, a statement that the plan of conversion was approved in accordance with this subchapter or, if the converting entity is a foreign entity, a statement that the conversion was approved by the foreign converting entity in accordance with the law of its jurisdiction of formation;

(5) If the converted entity is a domestic filing entity, the text of its public organic record as an attachment; and

(6) If the converted entity is a domestic limited liability partnership, the text of its statement of qualification as an attachment; and

(7) If the converted entity is a foreign entity that is not a registered foreign entity, a mailing address to which process may be served pursuant to § 29-204.06(e).

(c) In addition to the requirements of subsection (b) of this section, a statement of conversion may contain any other provision not prohibited by law.

(d) If the converted entity is a domestic entity, its public organic record, if any, shall satisfy the requirements of the law of the District, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) A plan of conversion that is signed on behalf of a domestic converting entity and meets all of the requirements of subsection (b) of this section may be delivered to the Mayor for filing instead of a statement of conversion and, upon filing by the Mayor, shall have the same effect. If a plan of conversion is filed as provided in this subsection, references in this chapter to a statement of conversion shall refer to the plan of conversion filed under this subsection.

(f) A statement of conversion shall be effective upon the date and time of filing or the later date and time specified in the statement of conversion.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(21), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02 and § 29-516.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (a) and (e); substituted “formation, and type of entity” for “organization, and type” in (b)(1) and (b)(2); substituted “formation” for “organization” in (b)(4); substituted “record” for “document” in (b)(5) and throughout (d); substituted “registered” for “qualified”

in (b)(7); and substituted “upon filing with the Mayor” for “upon filing” in (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-204.06. Effect of conversion.

(a) When a conversion becomes effective:

(1) The converted entity shall be:

(A) Formed under and subject to the organic law of the converted entity; and

(B) The same entity without interruption as the converting entity;

(2) All property of the converting entity shall continue to be vested in the converted entity without transfer, reversion, or impairment;

(3) All liabilities of the converting entity shall continue as debts, obligations, or other liabilities of the converted entity;

(4) Except as otherwise provided by law other than this chapter or the plan of conversion, all of the rights, privileges, immunities, powers, and purposes of the converting entity shall remain in the converted entity;

(5) The name of the converted entity may be substituted for the name of the converting entity in any pending action or proceeding;

(6) If a converted entity is a filing entity, its public organic record shall be effective and shall be binding on its interest holders;

(7) If the converted entity is a limited liability partnership, its statement of qualification shall be effective simultaneously;

(8) The private organic rules of the converted entity that are to be in a record, if any, approved as part of the plan of conversion shall be effective and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of a converted entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the entity’s private organic rules; and

(9) The interests in the converting entity shall be converted, and the interest holders of the converting entity shall be entitled only to the rights provided to them under the plan of conversion, and to any appraisal rights they have under § 29-201.09 and the converting entity’s organic law.

(b) Except as otherwise provided in the organic law or organic rules of the converting entity, the conversion shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the converting entity.

(c) When a conversion becomes effective, a person that did not have interest holder liability with respect to the converting entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of a

conversion shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the conversion becomes effective.

(d) When a conversion becomes effective:

(1) The conversion shall not discharge any interest holder liability under the organic law of a domestic converting entity to the extent the interest holder liability arose before the conversion became effective;

(2) A person shall not have interest holder liability under the organic law of a domestic converting entity for any liability that arises after the conversion becomes effective;

(3) The organic law of a domestic converting entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred; and

(4) A person has whatever rights of contribution from any other person as are provided by the organic law or organic rules of the domestic converting entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the conversion had not occurred.

(e) When a conversion becomes effective, a foreign entity that is the converted entity may be served with process in the District for the collection and enforcement of any of its liabilities in the manner provided in § 29-104.12.

(f) If the converting entity is a registered foreign entity, the certificate of registration or other foreign qualification of the converting entity shall be canceled when the conversion becomes effective.

(g) A conversion shall not require the entity to wind up its affairs and shall not constitute or cause the dissolution of the entity.

(h) When a conversion becomes effective, the following rules apply:

(1) Subject to paragraph (3) of this subsection, the recordation tax imposed by section 303 of the District of Columbia Deed Recordation Tax Act, approved March 2, 1962 (76 Stat. 12; D.C. Official Code § 42-1103), or the transfer tax imposed by § 47-903, shall not be imposed, in connection with the conversion of a converting entity to a converted entity, upon the following:

(A) The filing of the public organic document of the converted entity;

(B) The recordation of a deed reflecting that the converted entity has become the legal title holder; or

(C) The transfer of title or other interest in real property from the converting entity to the converted entity.

(2) The tax exemptions enumerated in paragraph (1) of this subsection shall only be applicable if:

(A) The interest holders of the converted entity are identical to the interest holders of the converting entity;

(B) Each interest holder's allocation of the profits and losses of the converted entity is identical to the interest holder's allocation of the profits and losses of the converting entity; and

(C) There is no change in the interest holders of the converted entity or in the allocation to any interest holder in the profits and losses of the converted entity during the 12-month period following the effective date of the conver-

sion, other than by reason of the death of an interest holder or the involuntary dissolution of the converted entity.

(3) The tax exemptions enumerated in paragraph (1) of this subsection shall be effective regardless of whether the deed or transfer to the converted entity is from nominees or trustees for the converting entity or from the converting entity itself.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(22), 59 DCR 13171.)

Section references. — This section is referenced in § 29-204.05, § 29-406.58, § 42-1102, § 42-3404.02, and § 47-902.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Formed” for “Organized” in (a)(1)(A); substituted “transfer” for “assignment” in (a)(2); substituted “continue as debts, obligations, or other liabilities” for “continue as liabilities” in (a)(3); substituted “record” for “document” in

(a)(6); substituted “registered” for “qualified” in (f); and added (h).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter V. Domestication.

§ 29-205.01. Domestication authorized.

(a) Except as otherwise provided in this section, by complying with this subchapter, a domestic entity may become a domestic entity of the same type in a foreign jurisdiction if the domestication is authorized by the law of the foreign jurisdiction.

(b) Except as otherwise provided in this section, by complying with the provisions of this subchapter applicable to foreign entities, a foreign entity may become a domestic entity of the same type in the District if the domestication is authorized by the law of the foreign entity’s jurisdiction of formation.

(c) If a protected agreement contains a provision that applies to a merger of a domestic entity but does not refer to a domestication, the provision shall apply to a domestication of the entity as if the domestication were a merger until the provision is amended after the effective date of this chapter.

(d) This subchapter does not apply to the domestication of the following entities:

- (1) A business corporation subject to subchapter VII of Chapter 3 of this title;
- (2) A nonprofit corporation subject to subchapter VII of Chapter 4 of this title; or
- (3) A limited liability company subject to subchapter IX of Chapter 8 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(23), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation” for “organization” in (b); repealed former (c), which read: “When the term ‘domestic entity’ is used in this subchapter with reference to a foreign jurisdiction, it means an entity whose internal affairs are governed by the law of the foreign jurisdiction.”; redesignated former (d) and (e) as present (c) and (d), respectively; and substituted “This subchapter does not apply to the domestication of the following entities” for “The fol-

lowing entities shall not engage in a domestication under this subchapter” in the introductory language of (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-205.02. Plan of domestication.

(a) A domestic entity may become a foreign entity in a domestication by approving a plan of domestication. The plan shall be in a record and contain:

- (1) The name and type of the domesticating entity;
- (2) The name and jurisdiction of formation of the domesticated entity;
- (3) The manner of converting the interests in the domesticating entity into interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of the foregoing;
- (4) The proposed public organic record of the domesticated entity if it is a filing entity;
- (5) The full text of the private organic rules of the domesticated entity that are proposed to be in a record;
- (6) The other terms and conditions of the domestication; and
- (7) Any other provision required by the law of the District or the organic rules of the domesticating entity.

(b) A plan of domestication may contain any other provision not prohibited by law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(24), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation” for “organization” in (a)(2); substituted “money” for “cash” in (a)(3); and substituted “record” for “document” in (a)(4).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-205.03. Approval of domestication.

(a) A plan of domestication shall not be effective unless it has been approved:

- (1) By a domestic domesticating entity:
 - (A) In accordance with the requirements, if any, in its organic rules for approval of a domestication;
 - (B) If its organic rules do not provide for approval of a domestication, in accordance with the requirements, if any, in its organic law and organic rules for approval of:

(i) In the case of an entity that is not a business corporation, a merger as if the domestication were a merger; or

(ii) In the case of a business corporation, a merger requiring approval by a vote of the interest holders of the business corporation as if the domestication were that type of merger; or

(C) If its organic law or organic rules do not provide for approval of a domestication or a merger described in subparagraph (B)(ii) of this paragraph, by all of the interest holders of the entity entitled to vote on or consent to any matter; and

(2) In a record, by each interest holder of a domestic domesticating entity that will have interest holder liability for liabilities that arise after the domestication becomes effective, unless, in the case of an entity that is not a business corporation or nonprofit corporation:

(A) The organic rules of the entity in a record provide for the approval of a domestication or merger in which some or all of its interest holders become subject to interest holder liability by the vote or consent of less than all of the interest holders; and

(B) The interest holder voted for or consented in a record to that provision of the organic rules or became an interest holder after the adoption of that provision.

(b) A domestication of a foreign domesticating entity shall not be effective unless it is approved in accordance with the law of the foreign entity's jurisdiction of formation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(25), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “formation” for “organization” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-205.04. Amendment or abandonment of plan of domestication.

(a) A plan of domestication of a domestic domesticating entity may be amended:

(1) In the same manner as the plan was approved if the plan does not provide for the manner in which it may be amended; or

(2) By the governors or interest holders of the entity in the manner provided in the plan, but an interest holder that was entitled to vote on or consent to approval of the domestication shall be entitled to vote on or consent to any amendment of the plan that will change:

(A) The amount or kind of interests, securities, obligations, rights to acquire interests or securities, money, or other property, or any combination of

the foregoing, to be received by any of the interest holders of the domesticating entity under the plan;

(B) The public organic record or private organic rules of the domesticated entity that will be in effect immediately after the domestication becomes effective, except for changes that do not require approval of the interest holders of the domesticated entity under its organic law or organic rules; or

(C) Any other terms or conditions of the plan if the change would adversely affect the interest holder in any material respect.

(b) After a plan of domestication has been approved by a domestic domesticating entity and before a statement of domestication becomes effective, the plan may be abandoned:

(1) As provided in the plan; or

(2) Unless prohibited by the plan, in the same manner as the plan was approved.

(c) If a plan of domestication is abandoned after a statement of domestication has been delivered to the Mayor for filing and before the statement of domestication becomes effective, a statement of abandonment, signed on behalf of the entity, shall be delivered to the Mayor for filing before the time the statement of domestication becomes effective. The statement of abandonment shall be effective upon filing by the Mayor, and the domestication shall be abandoned and shall not become effective. The statement of abandonment shall contain:

(1) The name of the domesticating entity;

(2) The date on which the statement of domestication was filed; and

(3) A statement that the domestication has been abandoned in accordance with this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(26), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “money” for “cash” in (a)(2)(A); substituted “record” for “document” in (a)(2)(B); and in (c), twice substituted “delivered to the Mayor for filing” for “filed with the Mayor”, substituted “the statement of domestication” for “the filing”, and added “by the Mayor” following “upon filing” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-205.05. Statement of domestication; effective date.

(a) A statement of domestication shall be signed on behalf of the domesticating entity and delivered to the Mayor for filing.

(b) A statement of domestication shall contain:

(1) The name, jurisdiction of formation, and type of the domesticating entity;

(2) The name and jurisdiction of formation of the domesticated entity;

(3) If the statement of domestication is not to be effective upon filing, the later date and time on which it will become effective, which shall not be more than 90 days after the date of filing;

(4) If the domesticating entity is a domestic entity, a statement that the plan of domestication was approved in accordance with this subchapter or, if the domesticating entity is a foreign entity, a statement that the domestication was approved in accordance with the law of its jurisdiction of formation;

(5) If the domesticated entity is a domestic filing entity, its public organic record as an attachment; and

(6) If the domesticated entity is a domestic limited liability partnership, its statement of qualification as an attachment; and

(7) If the domesticated entity is a foreign entity that is not a registered foreign entity, a mailing address to which the process may be served pursuant to § 29-205.06(e).

(c) In addition to the requirements of subsection (b) of this section, a statement of domestication may contain any other provision not prohibited by law.

(d) If the domesticated entity is a domestic entity, its public organic record, if any, shall satisfy the requirements of the law of the District, except that it does not need to be signed and may omit any provision that is not required to be included in a restatement of the public organic record.

(e) A plan of domestication that is signed on behalf of a domesticating domestic entity and meets all of the requirements of subsection (b) of this section may be delivered to the Mayor for filing instead of a statement of domestication and, upon filing by the Mayor, shall have the same effect. If a plan of domestication is filed as provided in this subsection, references in this chapter to a statement of domestication shall refer to the plan of domestication filed under this subsection.

(f) A statement of domestication shall be effective upon the date and time of filing or the later date and time specified in the statement of domestication.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(27), 59 DCR 13171.)

Section references. — This section is referenced in § 29-201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (a) and (e); substituted “formation, and type” for “organization, and type” in (b)(1); substituted “formation” for “organization” in (b)(2) and (4); substituted “record” for “document” in (b)(5) and throughout (d); substituted “registered” for “qualified” in (b)(7); and

substituted “upon filing by the Mayor” for “upon filing” in (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-205.06. Effect of domestication.

(a) When a domestication becomes effective:

(1) The domesticated entity shall be:

(A) Organized under and subject to the organic law of the domesticated entity; and

(B) The same entity without interruption as the domesticating entity;

(2) All property of the domesticating entity shall continue to be vested in the domesticated entity without transfer, reversion, or impairment;

(3) All liabilities of the domesticating entity shall continue as liabilities of the domesticated entity;

(4) Except as otherwise provided by law other than this chapter or the plan of domestication, all of the rights, privileges, immunities, powers, and purposes of the domesticating entity shall remain in the domesticated entity;

(5) The name of the domesticated entity may be substituted for the name of the domesticating entity in any pending action or proceeding;

(6) If the domesticated entity is a filing entity, its public organic record shall be effective and shall be binding on its interest holders;

(7) If the domesticated entity is a limited liability partnership, its statement of qualification shall be effective simultaneously;

(8) The private organic rules of the domesticated entity that are to be in a record, if any, approved as part of the plan of domestication shall be effective and shall be binding on and enforceable by:

(A) Its interest holders; and

(B) In the case of a domesticated entity that is not a business corporation or nonprofit corporation, any other person that is a party to an agreement that is part of the domesticated entity's private organic rules; and

(9) The interests in the domesticating entity shall be converted to the extent and as approved in connection with the domestication, and the interest holders of the domesticating entity shall be entitled only to the rights provided to them under the plan of domestication, and to any appraisal rights they have under § 29-201.09 and the domesticating entity's organic law.

(b) Except as otherwise provided in the organic law or organic rules of the domesticating entity, the domestication shall not give rise to any rights that an interest holder, governor, or third party would otherwise have upon a dissolution, liquidation, or winding-up of the domesticating entity.

(c) When a domestication becomes effective, a person that did not have interest holder liability with respect to the domesticating entity and that becomes subject to interest holder liability with respect to a domestic entity as a result of the domestication shall have interest holder liability only to the extent provided by the organic law of the entity and only for those liabilities that arise after the domestication becomes effective.

(d) When a domestication becomes effective:

(1) The domestication shall not discharge any interest holder liability under the organic law of a domesticating domestic entity to the extent the interest holder liability arose before the domestication became effective;

(2) A person shall not have interest holder liability under the organic law of a domestic domesticating entity for any liability that arises after the domestication becomes effective;

(3) The organic law of a domestic domesticating entity shall continue to apply to the release, collection, or discharge of any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred; and

(4) A person shall have whatever rights of contribution from any other person as are provided by the organic law or organic rules of a domestic

domesticating entity with respect to any interest holder liability preserved under paragraph (1) of this subsection as if the domestication had not occurred.

(e) When a domestication becomes effective, a foreign entity that is the domesticated entity may be served with process in the District for the collection and enforcement of any of its liabilities in the manner provided in § 29-104.12.

(f) If the domesticating entity is a registered foreign entity, the certificate of registration or other foreign qualification of the domesticating entity shall be canceled when the domestication becomes effective.

(g) A domestication shall not require the entity to wind up its affairs and shall not constitute or cause the dissolution of the entity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(b)(28), 59 DCR 13171.)

Section references. — This section is referenced in § 29-205.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “transfer” for “assignment” in (a)(2); substituted “record” for “document” in (a)(6); and substituted “registered” for “qualified” in (f).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-201.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

BUSINESS CORPORATIONS

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PART A.

SHORT TITLE, DEFINITIONS, AND NOTICE.

§ 29-301.01. Short title.

This chapter may be cited as the “Business Corporation Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Cross references. — Cooperative associations, applicability of this chapter, see § 29-938.

Reciprocal insurance company conversions, applicability of this chapter, see § 31-754.

Section references. — This section is referenced in § 44-603.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-301.02. Definitions.

For the purpose of this chapter, the term:

(1) “Authorized shares” means the shares of all classes a domestic or foreign corporation is authorized to issue.

(2) “Bylaws” means the code of rules, other than the articles of incorporation, adopted for the regulation and governance of the internal affairs of the corporation, regardless of the name or names used to refer to those rules.

(3) “Conspicuous” means so written, displayed, or presented that a reasonable person against whom it is to operate should have noticed it. Conspicuous terms shall include:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language.

(4) “Corporation”, “domestic corporation”, or “domestic business corporation” means a corporation for profit, which is not a foreign corporation, incorporated under or subject to this chapter.

(5) “Distribution” means a direct or indirect transfer of money or other property, except a corporation’s own shares, or incurrence of indebtedness by the corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of:

(A) A declaration or payment of a dividend;

(B) A purchase, redemption, or other acquisition of shares;

(C) A distribution of indebtedness; or

(D) Another method.

(6) "Domestic unincorporated entity" means an unincorporated entity whose internal affairs are governed by the laws of the District.

(7) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(8) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(9) "Eligible interests" means interests or shares.

(10) "Employee" shall include an officer but not a director. A director may accept duties that make the director also an employee.

(11) "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter.

(12) "Foreign corporation" means a corporation incorporated under a law other than the law of the District which would be a business corporation if incorporated under the laws of the District.

(13) "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of the District, which would be a nonprofit corporation if incorporated under the laws of the District.

(14) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than the District.

(15) "Owner liability" means personal liability for a debt, obligation, or liability of a domestic or foreign business or nonprofit corporation or unincorporated entity that is imposed on a person:

(A) Solely by reason of the person's status as a shareholder, member, or interest holder; or

(B) By the articles of incorporation, bylaws, or an organic document under a provision of the organic law of an entity authorizing the articles of incorporation, bylaws, or an organic document to make one or more specified shareholders, members, or interest holders liable in their capacity as shareholders, members, or interest holders for all or specified debts, obligations, or liabilities of the entity.

(16) "Public corporation" means a corporation that has shares listed on a national securities exchange or regularly traded in a market maintained by one or more members of a national securities association.

(17) "Record date" means the date established under subchapter IV or V of this chapter on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(18) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under § 29-306.40(c) for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

(19) "Shareholder" means the person in whose name shares are registered

in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.

(20) “Shares” means the units into which the proprietary interests in a corporation are divided.

(21) “Subscriber” means a person that subscribes for shares in a corporation, whether before or after incorporation.

(22) “Unincorporated entity” means an entity that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not a domestic or foreign business or nonprofit corporation, an estate, a trust, a state, the United States, or a foreign government. The term “unincorporated entity” shall include a general partnership, limited liability company, limited partnership, limited cooperative association, business or statutory trust, joint stock association, and unincorporated nonprofit association.

(23) “Vote”, “voting”, or “casting a vote” includes the giving of consent without a meeting. The term “vote”, “voting”, “casting a vote” shall not include either recording the fact of abstention or failing to vote for a candidate or for approval or disapproval of a matter, whether or not the person entitled to vote characterizes the conduct as voting or casting a vote.

(24) “Voting group” means all shares of one or more classes or series that, under the articles of incorporation or this chapter, are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are, for that purpose, a single voting group.

(25) “Voting power” means the current power to vote in the election of directors or to vote on approval of any type of fundamental transaction. For the purposes of this paragraph, the term “fundamental transaction” means an amendment of the articles of incorporation or bylaws, merger, interest exchange, sale of all or substantially all of the assets, domestication, conversion, or dissolution of a corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-301.03. Notice and other communications.

(a) Notice under this chapter must be in writing unless oral notice is reasonable under the circumstances. Unless otherwise agreed between the sender and the recipient, words in a notice or other communication under this chapter must be in English.

(b) A notice or other communication may be given or sent by any method of delivery, except that electronic transmissions must be sent in accordance with this section. If these methods of communication are impracticable, a notice or other communication may be communicated by a newspaper of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.

(c) Notice or other communication to a domestic or a registered foreign corporation may be delivered to its registered agent at its registered office or to the secretary of the corporation at its principal office shown in its most recent annual report or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of registration.

(d) Notice or other communications may be delivered by electronic transmission if:

- (1) The recipient consents or if authorized by subsection (k) of this section;
- (2) The electronic transmission contains or is accompanied by information from which the recipient can determine the date of the transmission; and
- (3) The transmission was authorized by the sender.

(e) Consent under subsection (d) of this section may be revoked by giving written or electronic notice to the original recipient of the consent. Any such consent is deemed revoked if:

- (1) Two consecutive electronic transmissions are undeliverable; and
- (2) The secretary, assistant secretary, transfer agent, or other person responsible for the provision of notice or other communications knows of the delivery failure. Any inadvertent failure to treat such inability as a revocation shall not invalidate any meeting or other action.

(f) Unless otherwise agreed between sender and recipient, an electronic transmission is considered received when:

(1) It enters an information processing system that the recipient has designated or uses for the purposes of receiving electronic transmissions or information of the type sent, and from which the recipient is able to retrieve the electronic transmission; and

(2) It is in a form capable of being processed by that system.

(g) Receipt of an electronic acknowledgment from an information processing system described in subsection (f)(1) of this section establishes that an electronic transmission was received but, by itself, does not establish that the content sent corresponds to the content received.

(h) An electronic transmission is considered received under this section even if no individual is aware of its receipt.

(i) Notice or other communication, if in a comprehensible form or manner, is effective at the earliest of the following:

- (1) If in physical form, when it is left at:
 - (A) A shareholder's address shown on the corporation's record of shareholders maintained by the corporation under § 29-313.01(c);
 - (B) A director's residence or usual place of business; or
 - (C) The corporation's principal place of business;
- (2) If mailed postage prepaid and correctly addressed to a shareholder upon deposit in the United States mail;
- (3) If mailed by United States mail postage prepaid and correctly addressed to a recipient other than a shareholder, the earliest of the following:
 - (A) If sent by registered or certified mail, return receipt requested, the date the return receipt is signed by or on behalf of the addressee; or
 - (B) 5 days after it is deposited in the United States mail;
- (4) If an electronic transmission, when it is received as provided in subsection (f) of this section; and

(5) If oral, when communicated.

(j) A notice or other communication may be in the form of an electronic transmission that cannot be directly reproduced in paper form by the recipient through an automated process used in conventional commercial practice only if:

(1) The electronic transmission is otherwise retrievable in perceivable form; and

(2) The sender and the recipient have consented in writing to the use of such form of electronic transmission.

(k) If this title prescribes requirements for notices or other communications in particular circumstances, those requirements govern. If articles of incorporation or bylaws prescribe requirements for notices or other communications, not inconsistent with this section or other provisions of this title, those requirements govern. The articles of incorporation or bylaws may authorize or require delivery of notices of meetings of directors by electronic transmission.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(2), 59 DCR 13171.)

Section references. — This section is referenced in § 29-305.24.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amend-

ments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-301.04. Reference to extrinsic facts in plans or filed documents.

(a) For the purposes of this subsection, the term:

(1) “Filed document” means a document delivered to the Mayor for filing under any provision of this chapter except § 29-102.11.

(2) “Plan” means a plan of domestication, nonprofit conversion, entity conversion, merger, or share exchange.

(b) Whenever a provision of this chapter permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document.

(2) The facts may include:

(A) Any of the following that is available in a nationally recognized news or information medium, either in print or electronically:

(i) Statistical or market indices;

(ii) Market prices of any security or group of securities;

(iii) Interest rates;

(iv) Currency exchange rates; or

(v) Similar economic or financial data;

(B) A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.

(3) The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

(A) The name and address of any person required in a filed document;

(B) The registered agent of any entity required in a filed document;

(C) The number of authorized shares and designation of each class or series of shares;

(D) The effective date of a filed document; or

(E) Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.

(4) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph (2)(A) of this subsection or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, the corporation shall file with the Mayor articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph shall be deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(3), 59 DCR 13171.)

Section references. — This section is referenced in § 29-302.02, § 29-304.01, § 29-307.01, § 29-308.06, § 29-309.02, § 29-309.03, and § 29-313.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (a)(1).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

PART B.

NUMBER OF SHAREHOLDERS; QUALIFIED DIRECTOR; HOUSEHOLDING.

§ 29-301.20. Number of shareholders.

(a) For the purposes of this chapter, the following identified as a shareholder in a corporation’s current record of shareholders constitutes one shareholder:

(1) Three or fewer co-owners;

(2) A corporation, partnership, trust, estate, or other entity;

(3) The trustees, guardians, custodians, or other fiduciaries of a single trust, estate, or account.

(b) For the purposes of this chapter, shareholdings registered in substantially similar names shall constitute one shareholder if it is reasonable to believe that the names represent the same person.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-301.21. Qualified director.

(a) For the purposes of this section, the term:

(1) “Material interest” means an actual or potential benefit or detriment, other than one which would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director’s judgment when participating in the action to be taken.

(2) “Material relationship” means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of the director’s judgment when participating in the action to be taken.

(b) A qualified director is a director who:

(1) At the time action is to be taken under § 29-305.54, does not have:

(A) A material interest in the outcome of the proceeding; or

(B) A material relationship with a person that has such an interest;

(2) At the time action is to be taken under § 29-306.53 or 29-306.55:

(A) Is not a party to the proceeding;

(B) Is not a director as to whom a transaction is a director’s conflicting interest transaction or who sought a disclaimer of the corporation’s interest in a business opportunity under § 29-306.80, which transaction or disclaimer is challenged in the proceeding; and

(C) Does not have a material relationship with a director described in either subparagraph (A) or (B) of this paragraph;

(3) At the time action is to be taken under § 29-306.72, is not a director:

(A) As to whom the transaction is a director’s conflicting interest transaction; or

(B) Who has a material relationship with another director as to whom the transaction is a director’s conflicting interest transaction; or

(4) At the time action is to be taken under § 29-306.80, would be a qualified director under subsection (b)(3) of this section if the business opportunity were a director’s conflicting interest transaction.

(c) The presence of one or more of the following circumstances shall not by itself prevent a director from being a qualified director:

(1) Nomination or election of the director to the current board by any director who is not a qualified director with respect to the matter, or by any person that has a material relationship with that director, acting alone or participating with others;

(2) Service as a director of another corporation of which a director who is not a qualified director with respect to the matter, or any individual who has a material relationship with that director, is or was also a director; or

(3) With respect to action to be taken under § 29-305.54, status as a named defendant, as a director against whom action is demanded, or as a director who approved the conduct being challenged.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-301.22. Householding.

(a) A corporation shall have delivered written notice or any other report or statement under this chapter, the articles of incorporation, or the bylaws to all shareholders who share a common address if:

(1) The corporation delivers one copy of the notice, report, or statement to the common address;

(2) The corporation addresses the notice, report, or statement to those shareholders either as a group or to each of those shareholders individually or to the shareholders in a form to which each of those shareholders has consented; and

(3) Each of those shareholders consents to delivery of a single copy of the notice, report, or statement to the shareholders' common address.

(b) Any consent under subsection (a)(3) of this section shall be revocable by any of such shareholders that delivers written notice of revocation to the corporation. If the written notice of revocation is delivered, the corporation shall begin providing individual notices, reports, or other statements to the revoking shareholder no later than 30 days after delivery of the written notice of revocation.

(c) Any shareholder that fails to object by written notice to the corporation, within 60 days of written notice by the corporation of its intention to send single copies of notices, reports, or statements to shareholders that share a common address as permitted by subsection (a) of this section, shall be deemed to have consented to receiving such single copy at the common address.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter II. Incorporation.

§ 29-302.01. Incorporators.

One or more persons may act as the incorporator or incorporators of a corporation by delivering articles of incorporation to the Mayor for filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-302.02. Articles of incorporation.

(a) The articles of incorporation shall set forth:

(1) A corporate name for the corporation that satisfies §§ 29-103.01 and 29-103.02(a);

(2) The number of shares the corporation is authorized to issue;

(3) The information required by § 29-104.04; and

(4) The name and address of each incorporator.

(b) The articles of incorporation may set forth:

(1) The names and addresses of the individuals who are to serve as the initial directors;

(2) Provisions not inconsistent with law regarding:

(A) The purpose or purposes for which the corporation is organized;

(B) Managing the business and regulating the affairs of the corporation;

(C) Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

(D) A par value for authorized shares or classes of shares;

(E) The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions;

(3) Any provision that under this chapter is required or permitted to be set forth in the bylaws;

(4) A provision eliminating or limiting the liability of a director to the corporation or its shareholders for money damages for any action taken, or any failure to take any action, as a director, except liability for:

(A) The amount of a financial benefit received by a director to which the director is not entitled;

(B) An intentional infliction of harm on the corporation or the shareholders;

(C) A violation of § 29-306.32; or

(D) An intentional violation of criminal law; and

(5) A provision permitting or making obligatory indemnification of a director for liability, as defined in § 29-306.50, to any person for any action taken, or any failure to take any action, as a director, except liability for:

(A) Receipt of a financial benefit to which the director is not entitled;

(B) An intentional infliction of harm on the corporation or its shareholders;

(C) A violation of § 29-306.32; or

(D) An intentional violation of criminal law.

(c) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(d) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with § 29-301.04.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-101.06, § 29-306.31, § 29-306.51, § 29-306.53, § 29-307.03, and § 29-1303.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Place of business.

The Business Corporation Act of District of Columbia, considered in its entirety, contemplates that principal place of business of a corporation may be outside the District after organization in the sense of creation, and there was no intention to make the proviso that “no corporation may be organized” under the Act

“unless the place where it conducts its principal business is located within the District of Columbia” a continuing regulation. D.C. Code 1951, §§ 29-903, 29-904(j), 29-907(a, b), 29-920(a), 29-921a, 29-931, 29-932, 29-952a. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

§ 29-302.03. Incorporation.

(a) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed.

(b) The Mayor’s filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in a proceeding by the District to cancel or revoke the incorporation or involuntarily dissolve the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Corporate existence.

De facto and de jure corporations.

Corporate existence.

President of “association” which filed its articles of incorporation that were first rejected but later accepted could be held personally liable on obligation entered into by “association” before certificate of incorporation was issued, and creditor was not estopped from denying existence of corporation because, after certificate of incorporation was issued, he accepted first installment payment on note executed by “association.” D.C. Code 1961, §§ 29-917, 29-918(a)(2), 29-921a(f), 29-921c, 29-921d, 29-950. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

Corporation comes into existence only when certificate of incorporation has been issued, and before certificate issues, there is no corporation de jure, de facto, or by estoppel. D.C. Code 1961,

§ 29-921c. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

De facto and de jure corporations.

“De facto corporation” is one which has been defectively incorporated, and which is thus not de jure. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

De facto corporation is recognized for all purposes except where there is direct attack by state in quo warranto proceeding. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

De jure corporation is not subject to direct or collateral attack either by state in quo warranto proceeding or by any other person. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

De jure corporation results when there has been conformity with mandatory conditions precedent as opposed to merely directive conditions established by statute. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

§ 29-302.04. Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a corporation, knowing there was no incorporation under this chapter, shall be jointly and severally liable for all liabilities created while so acting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-302.05. Organization of corporation.

(a) After incorporation:

(1) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(2) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to elect:

(A) Directors and complete the organization of the corporation; or

(B) A board of directors who shall complete the organization of the corporation.

(b) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more written consents describing the action taken and signed by each incorporator.

(c) An organizational meeting may be held in or outside of the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-302.06. Bylaws.

(a) The incorporators or board of directors of a corporation shall adopt initial bylaws for the corporation.

(b) The bylaws of a corporation may contain any provision for managing the business and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-302.07. Emergency bylaws.

(a) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (d) of this section. The emergency bylaws, which shall be subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

- (1) Procedures for calling a meeting of the board of directors;
- (2) Quorum requirements for the meeting; and
- (3) Designation of additional or substitute directors.

(b) All provisions of the regular bylaws consistent with the emergency bylaws shall remain effective during the emergency. The emergency bylaws shall not be effective after the emergency ends.

(c) Corporate action taken in good faith in accordance with the emergency bylaws:

- (1) Binds the corporation; and
- (2) Shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for the purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter III. Purposes and Powers.

§ 29-303.01. Purposes.

(a) Every corporation incorporated under this chapter shall have the purpose of engaging in any lawful business unless a more limited purpose is set forth in the articles of incorporation.

(b) A corporation engaging in a business that is subject to regulation under another law of the District may incorporate under this chapter only if permitted by, and subject to all limitations of, the other law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1302.01. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-303.02. General powers.

Unless its articles of incorporation provide otherwise, every corporation shall have perpetual duration and succession in its corporate name and shall

have the same powers as an individual to do all things necessary or convenient to carry out its activities and affairs, including power to:

- (1) Sue and be sued, and defend in its corporate name;
- (2) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
- (3) Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the District, for managing the business and regulating the affairs of the corporation;
- (4) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, property, or any legal or equitable interest in property, wherever located;
- (5) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (6) Purchase, receive, subscribe for, or otherwise acquire; own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of; and deal in and with shares or other interests in, or obligations of, any other entity;
- (7) Make contracts and guarantees, incur liabilities, borrow money, issue its notes, bonds, and other obligations, which may be convertible into or include the option to purchase other securities of the corporation, and secure any of its obligations by mortgage or pledge of any of its property, franchises, or income;
- (8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment;
- (9) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (10) Conduct its business, locate offices, and exercise the powers granted by this chapter within or without the District;
- (11) Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit;
- (12) Pay pensions and establish pension plans, pension trusts, profit sharing plans, share bonus plans, share option plans, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;
- (13) Make donations for the public welfare or for charitable, scientific, or educational purposes;
- (14) Do any lawful business that will aid governmental policy; and
- (15) Make payments or donations, or do any other act, not inconsistent with law, that furthers the activities and affairs of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(4), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in the introductory

language and in (15); and deleted “real or personal” preceding the first appearance of “property” in (4).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings.

Borrowing.

Conduct of business.

In general.

Place of business.

Actions and proceedings.

Whether foreign corporation, previously qualified, possessed different status when it filed in advance of suit for recovery of allegedly usurious interest a certificate of withdrawal was relevant issue in addition to question raised in first amended complaint as to whether statute allowing corporations to seek financing without regard to lawful interest rates barred a corporation's action to recover usurious interest, and order dismissing second amended complaint which presented issue of foreign corporation's status was a final and appealable order. D.C. Code 1961, §§ 29-904(h), 29-933a. *Indian Lake Estates, Inc. v. Ten Individual Defendants*, 350 F.2d 435, 1965 U.S. App. LEXIS 4726 (C.A.D.C. 1965), writ of certiorari denied by 383 U.S. 947, 86 S. Ct. 1199, 16 L. Ed. 2d 209, 1966 U.S. LEXIS 2056 (1966).

Borrowing.

Filing of certificate of withdrawal by foreign corporation did not change status previously acquired by corporation's contracts so that under statute allowing corporations to seek financing without regard to lawful interest rates its complaint for recovery of usurious interest under prior contracts was barred. D.C. Code 1961, §§ 28-2701 to 28-2709, 28-2703, 28-2704, 29-904(h), 29-933a. *Indian Lake Estates, Inc. v. Ten Individual Defendants*, 350 F.2d 435, 1965 U.S. App. LEXIS 4726 (C.A.D.C. 1965), writ of certiorari denied by 383 U.S. 947, 86 S. Ct. 1199, 16 L. Ed. 2d 209, 1966 U.S. LEXIS 2056 (1966).

Statute withdrawing defense of usury from corporation applies also to individual guarantor so that guarantor, as well as corporation, would be precluded from interposing usury as defense to action upon promissory note. D.C. Code § 29-904(h). *Caruso v. Hollander*, 363 A.2d 297, 1976 D.C. App. LEXIS 354 (1976).

Conduct of business.

Collection agency did not become entitled to utilize practices which constituted the unau-

thorized practice of law merely because it received the grant by corporate charter from the District of Columbia to conduct its collection business and to do what is necessary to carry out its purposes. (Per Yeagley, J., with one Judge concurring in the result and another Judge concurring in part.) D.C. Code § 29-904. *J. H. Marshall & Associates, Inc. v. Burleson*, 313 A.2d 587, 1973 D.C. App. LEXIS 411 (1973).

Collection agency did not by employing an attorney to actually present himself in court, remove itself from the sphere of unauthorized practice. (Per Yeagley, J., with one Judge concurring in the result and another Judge concurring in part.) D.C. Code § 29-904. *J. H. Marshall & Associates, Inc. v. Burleson*, 313 A.2d 587, 1973 D.C. App. LEXIS 411 (1973).

In general.

Generally, corporation has only powers conferred by its charter or general laws of state of incorporation. *Washington Gas Light Co. v. Dann*, 70 F.2d 746, 1934 U.S. App. LEXIS 4292 (1934).

Everyone dealing with corporation is bound to take notice of limitation of its corporate powers. *Washington Gas Light Co. v. Dann*, 70 F.2d 746, 1934 U.S. App. LEXIS 4292 (1934).

A "corporation" is a juristic person created by the sovereignty, and has no powers except those expressly conferred or reasonably necessary to carry those expressly conferred into effect. *National Ass'n of Certified Public Accountants v. U.S.*, 292 F. 668, 1923 U.S. App. LEXIS 2998 (1923).

While, after a certificate of incorporation has been filed and the company has gone into operation, the inclusion in the certificate of powers not permitted may be regarded as surplusage, the inclusion of such powers in a certificate not yet filed will be held to be sufficient to justify the recording officer in refusing to accept it for record. *Dancy v. Clark*, 24 App.D.C. 487, 1905 U.S. App. LEXIS 5382 (1905).

Provision which was part of Business Corporation Act of 1901 and required restrictions to be stated on certificate had no application to corporation organized for profit in 1958. D.C. Code §§ 29-201 et seq., 29-239, 29-901 et seq., 29-903, 29-904. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C.1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

The provision of Business Corporation Act of District of Columbia granting to a corporation which is reincorporated under the Act all the privileges and powers and making corporation subject to all provisions of the Act was intended to place a pre-existing corporation on equality with one newly organized, so far as benefits and burdens under the Act were concerned, but in order not to deprive a pre-existing corporation of that which it already had, the subsequent provision confirming and assuring all privileges and powers theretofore belonging to the corporation was intended to preserve them intact. D.C. Code 1951, § 29-952a. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

Place of business.

The proviso of the statute that no corporation may be organized thereunder unless place where it conducts its principal business is located within the District of Columbia speaks prospectively, and where corporation owning a baseball club, although reincorporated under the 1954 act, was organized under the act of 1901, imposing no restrictions upon the place where the corporation might conduct its principal business, such corporation was not required to conduct its principal business at a place within the District and was not prohibited from moving its American League franchise to any other city outside the District. D.C. Code 1951, §§ 29-201 et seq., 29-902 et seq., 29-903. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 267 F.2d 655, 1959 U.S. App. LEXIS 3805 (C.A.D.C. 1959).

Under Business Corporation Act of District of Columbia providing that "no corporation may be organized" under the Act "unless the place where it conducts its principal business is lo-

cated within the District of Columbia", the word "organized" has relation only to time of incorporation and hence such provision would not prohibit corporation operating professional baseball team from transferring its franchise from District to a city outside of District since the usual meaning of word "organized" when used in relation to corporate structures is in the sense of having been brought into being or created and the word as used in the Act sounds in praesenti and means the creation of a corporation without reference to the future. D.C. Code 1951, § 29-903. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

In determining whether proviso of Business Corporation Act of District of Columbia that no corporation may be organized unless the place where it conducts its principal business is located within District prohibits a corporation from conducting business in a city outside of District, court would examine the Act as a whole. D.C. Code 1951, § 29-903. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

The Business Corporation Act of District of Columbia, considered in its entirety, contemplates that principal place of business of a corporation may be outside the District after organization in the sense of creation, and there was no intention to make the proviso that "no corporation may be organized" under the Act "unless the place where it conducts its principal business is located within the District of Columbia" a continuing regulation. D.C. Code 1951, §§ 29-903, 29-904(j), 29-907(a, b), 29-920(a), 29-921a, 29-931, 29-932, 29-952a. *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

§ 29-303.03. Emergency powers.

(a) In anticipation of or during an emergency defined in subsection (d), the board of directors of a corporation may:

(1) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency defined in subsection (d) of this section, unless emergency bylaws provide otherwise:

(1) Notice of a meeting of the board of directors need be given only to those directors whom it is practicable to reach and may be given in any practicable manner, including by publication, radio, and messages sent over the Internet; and

(2) One or more officers of the corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of

rank and within the same rank in order of seniority, as necessary to achieve a quorum.

(c) Corporate action taken in good faith during an emergency under this section to further the ordinary business affairs of the corporation:

(1) Binds the corporation; and

(2) Shall not be used to impose liability on a corporate director, officer, employee, or agent.

(d) An emergency exists for the purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-303.04. Ultra vires.

(a) Except as otherwise provided in subsection (b) of this section, the validity of corporate action may not be challenged on the ground that the corporation lacks, or lacked, power to act.

(b) A corporation's power to act may be challenged in a proceeding by:

(1) A shareholder against the corporation to enjoin the act;

(2) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director, officer, employee, or agent of the corporation; or

(3) The Attorney General for the District of Columbia under § 29-312.20.

(c) In a shareholder's proceeding under subsection (b)(1) of this section to enjoin an unauthorized corporate act, the Superior Court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

Nonprofit corporation representing persons engaged in business of selling, installing and servicing air-conditioning equipment was not vested with right to challenge capacity of District of Columbia gas company to enter into

contractual arrangement for gas service on the ground that contract was ultra vires. D.C. Code 1961, § 29-905. *Association of Fair Competitive Practices in Air Conditioning, Inc. v. Public Seublic Serv*, 372 F.2d 934, 1967 U.S. App. LEXIS 7576 (C.A.D.C. 1967).

Subchapter IV. Shares and Distributions.

PART A.

SHARES.

§ 29-304.01. Authorized shares.

(a) The articles of incorporation shall set forth any classes of shares and series of shares within a class, and the number of shares of each class and series, that the corporation is authorized to issue. If more than one class or series of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class or series and shall describe, prior to the issuance of shares of a class or series, the terms, including the preferences, rights, and limitations, of that class or series. Except to the extent varied as permitted by this section, all shares of a class or series must have terms, including preferences, rights, and limitations, that are identical with those of other shares of the same class or series.

(b) The articles of incorporation shall authorize:

(1) One or more classes or series of shares that together have unlimited voting rights; and

(2) One or more classes or series of shares, which may be the same class or classes as those with voting rights, that together are entitled to receive the net assets of the corporation upon dissolution.

(c) The articles of incorporation may authorize one or more classes or series of shares that:

(1) Have special, conditional, or limited voting rights, or no right to vote, except to the extent otherwise provided by this chapter;

(2) Are redeemable or convertible as specified in the articles of incorporation:

(A) At the option of the corporation, the shareholder, or another person or upon the occurrence of a specified event;

(B) For money, indebtedness, securities, or other property; and

(C) At prices and in amounts:

(i) Specified; or

(ii) Determined in accordance with a formula;

(3) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or

(4) Have preference over any other class or series of shares with respect to distributions, including distributions upon the dissolution of the corporation.

(d) Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with § 29-301.04.

(e) Any of the terms of shares may vary among holders of the same class or series so long as the variations are expressly set forth in the articles of incorporation.

(f) The description of the preferences, rights, and limitations of classes or series of shares in subsection (c) of this section is not exhaustive.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(5), 59 DCR 13171.)

Section references. — This section is referenced in § 29-304.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “money” for “cash” in (c)(2)(B).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions and proceedings.
Promissory notes.

Actions and proceedings.

Lack of clear ruling on issue of whether payment was made on promissory note given in exchange for treasury shares required remand for determination whether defect in sale had been cured by payment of purchase price in full. D.C. Code 1981, § 29-317. *Public Invest., Ltd. v. Bandeirante Corp.*, 740 F.2d 1222, 1984 U.S. App. LEXIS 19867 (C.A.D.C. 1984).

Because of his fiduciary duty, burden shifted to promoter to demonstrate entire fairness and adequacy of consideration received by corporation in sale of voting stock. *Public Invest., Ltd. v. Bandeirante Corp.*, 740 F.2d 1222, 1984 U.S. App. LEXIS 19867 (C.A.D.C. 1984).

Promissory notes.

District of Columbia law forbids corporations

to sell stock for promissory note. D.C. Code 1981, § 29-317. *Public Invest., Ltd. v. Bandeirante Corp.*, 740 F.2d 1222, 1984 U.S. App. LEXIS 19867 (C.A.D.C. 1984).

Third-party promissory notes were not valid consideration for treasury shares under District of Columbia law. D.C. Code 1981, § 29-317. *Public Invest., Ltd. v. Bandeirante Corp.*, 740 F.2d 1222, 1984 U.S. App. LEXIS 19867 (C.A.D.C. 1984).

Illegal sale of treasury shares in exchange for promissory notes made sale voidable. D.C. Code 1981, § 29-317. *Public Invest., Ltd. v. Bandeirante Corp.*, 740 F.2d 1222, 1984 U.S. App. LEXIS 19867 (C.A.D.C. 1984).

§ 29-304.02. Terms of class or series determined by board of directors.

(a) If the articles of incorporation so provide, the board of directors may, without shareholder approval:

(1) Classify any unissued shares into one or more classes or into one or more series within a class;

(2) Reclassify any unissued shares of any class into one or more classes or into one or more series within one or more classes; or

(3) Reclassify any unissued shares of any series of any class into one or more classes or into one or more series within a class.

(b) If the board of directors acts pursuant to subsection (a) of this section, it shall determine the terms, including the preferences, rights, and limitations, to the same extent permitted under § 29-304.01, of:

(1) Any class of shares before the issuance of any shares of that class; or

(2) Any series within a class before the issuance of any shares of that series.

(c) Before issuing any shares of a class or series created under this section, the corporation shall deliver to the Mayor for filing articles of amendment setting forth the terms determined under subsection (a) and (b) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-304.20 and § 29-308.05. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-304.03. Issued and outstanding shares.

(a) A corporation may issue the number of shares of each class or series authorized by the articles of incorporation. Shares that are issued shall be outstanding shares until they are reacquired, redeemed, converted, or canceled.

(b) The reacquisition, redemption, or conversion of outstanding shares shall be subject to the limitations of subsection (c) of this section and to § 29-304.60.

(c) At all times that shares of the corporation are outstanding, one or more shares that together have unlimited voting rights and one or more shares that together are entitled to receive the net assets of the corporation upon dissolution must be outstanding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-304.04. Fractional shares.

(a) A corporation may:

(1) Issue fractions of a share or pay, in money, the value of fractions of a share;

(2) Arrange for disposition of fractional shares by the shareholders; or

(3) Issue scrip in registered or bearer form entitling the holder to receive a full share upon surrendering enough scrip to equal a full share.

(b) Each certificate representing scrip shall be conspicuously labeled “scrip” and shall contain the information required by § 29-304.25(b).

(c) The holder of a fractional share shall be entitled to exercise the rights of a shareholder, including the right to vote, to receive dividends, and to participate in the assets of the corporation upon liquidation. The holder of scrip shall not be entitled to any of these rights unless the scrip provides for them.

(d) The board of directors may authorize the issuance of scrip subject to any condition considered desirable, including that the:

(1) Scrip will become void if not exchanged for full shares before a specified date; and

(2) Shares for which the scrip is exchangeable may be sold and the proceeds paid to the scripholders.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

ISSUANCE OF SHARES.

§ 29-304.20. Subscription for shares before incorporation.

(a) A subscription for shares entered into before incorporation shall be irrevocable for 6 months unless the subscription agreement provides a longer or shorter period or all the subscribers agree to revocation.

(b) The board of directors may determine the payment terms of subscription for shares that were entered into before incorporation, unless the subscription agreement specifies them. A call for payment by the board of directors shall be uniform so far as practicable as to all shares of the same class or series, unless the subscription agreement specifies otherwise.

(c) Shares issued pursuant to subscriptions entered into before incorporation shall be fully paid and nonassessable when the corporation receives the consideration specified in the subscription agreement.

(d) If a subscriber defaults in payment of money or property under a subscription agreement entered into before incorporation, the corporation may collect the amount owed as any other debt. Alternatively, unless the subscription agreement provides otherwise, the corporation may rescind the agreement and may sell the shares if the debt remains unpaid for more than 20 days after the corporation sends written demand for payment to the subscriber.

(e) A subscription agreement entered into after incorporation shall be a contract between the subscriber and the corporation subject to § 29-304.02.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-304.21. Issuance of shares.

(a) The powers granted in this section to the board of directors may be reserved to the shareholders by the articles of incorporation.

(b) The board of directors may authorize shares to be issued for consideration consisting of any tangible or intangible property or benefit to the corporation, including money, promissory notes, services performed, contracts for services to be performed, and other securities of the corporation.

(c) Before the corporation issues shares, the board of directors shall determine that the consideration received or to be received for shares to be issued is adequate. That determination by the board of directors shall be conclusive

insofar as the adequacy of consideration for the issuance of shares relates to whether the shares are validly issued, fully paid, and nonassessable.

(d) When the corporation receives the consideration for which the board of directors authorized the issuance of shares, the shares issued therefor shall be fully paid and nonassessable.

(e) The corporation may place in escrow shares issued for a contract for future services or benefits or a promissory note, or make other arrangements to restrict the transfer of the shares, and may credit distributions in respect of the shares against their purchase price, until the services are performed, the note is paid, or the benefits received. If the services are not performed, the note is not paid, or the benefits are not received, the shares escrowed or restricted and the distributions credited may be canceled in whole or part.

(f) An issuance of shares or other securities convertible into or rights exercisable for shares, in a transaction or a series of integrated transactions, shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the matter exists, if:

(1) The shares, other securities, or rights are issued for consideration other than money or money equivalents, and

(2) The voting power of shares that are issued and issuable as a result of the transaction or series of integrated transactions will comprise more than 20% of the voting power of the shares of the corporation that were outstanding immediately before the transaction.

(g) For the purposes of this subsection:

(1) For the purposes of determining the voting power of shares issued and issuable as a result of a transaction or series of integrated transactions, the voting power of shares is the greater of:

(A) The voting power of the shares to be issued; or

(B) The voting power of the shares that would be outstanding after giving effect to the conversion of convertible shares and other securities and the exercise of rights to be issued.

(2) A series of transactions is integrated if consummation of one transaction is made contingent on consummation of one or more of the other transactions.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(6), 59 DCR 13171.)

Section references. — This section is referenced in § 29-309.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “money” for “cash” in (b) and twice in (f).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Estoppel.

An organizer and stockholder of a company, not having paid for his stock in money, as required by Rev.St. § 565, is estopped from

demanding that the other stockholders shall be compelled to pay for their stock in cash. *Ambler v. Archer*, 1 App.D.C. 94, 1893 U.S. App. LEXIS 3014 (1893).

§ 29-304.22. Liability of shareholders.

(a) A purchaser from a corporation of its own shares shall not be liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

(b) Unless otherwise provided in the articles of incorporation, a shareholder shall not be personally liable for the acts or debts of the corporation, except that the shareholder may become personally liable by reason of the shareholder's own acts or conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Actions to enforce liability.
Disregarding corporate entity.
In general.

Actions to enforce liability.

Whether the remedy of creditors of an insolvent corporation to subject unpaid subscriptions of stockholders to the payment of their debts is at law or in equity, such remedy must be pursued individually against each subscriber in a separate suit, and no two or more subscribers may be joined together in one suit merely by reason of the fact that they are subscribers to the same capital stock of the same company. There is no such common interest, under such circumstances, as will be recognized as good ground for the prevention of a multiplicity of suits. *People's Nat. Bank v. Saville*, 25 App.D.C. 139, 1905 U.S. App. LEXIS 5256 (1905).

Disregarding corporate entity.

Estate of corporation's sole shareholder could not invoke the alter ego theory when it sought to set aside foreclosure sales of deeds of trust on real estate held in corporation's name, as the estate was not an innocent third party requiring invocation of the alter ego doctrine to avoid an injustice resulting from someone else using the corporate form, and there was no evidence that the corporation ignored corporate formal-

ities, that corporation's capitalization was inadequate or that the shareholder fraudulently used the corporation to protect his business from creditors' claims. *Estate of Raleigh v. Mitchell*, 947 A.2d 464, 2008 D.C. App. LEXIS 232 (2008).

Sufficient participation of corporate officers for the attachment of liability can exist when there is an act or omission by the officer which logically leads to the inference that he had a share in the wrongful acts of the corporation which constitute the offense. *Childs v. Purll*, 882 A.2d 227, 2005 D.C. App. LEXIS 470 (2005).

Corporate officers are individually liable for the torts which they commit, participate in, or inspire, even though the acts are performed in the name of the corporation. *Childs v. Purll*, 882 A.2d 227, 2005 D.C. App. LEXIS 470 (2005).

Even absent grounds to pierce the corporate veil, corporate officers are not shielded by the limited liability of the corporation for liability for their own tortious acts. *Childs v. Purll*, 882 A.2d 227, 2005 D.C. App. LEXIS 470 (2005).

One seeking to pierce the corporate veil on an alter ego theory must prove by affirmative evidence the existence of a unity of ownership and interest and the use of the corporate form to perpetuate fraud or wrong. *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 2005 D.C. App. LEXIS 49 (2005).

Although no single factor is dispositive in determining whether the two necessary ele-

ments for piercing the corporate veil under an alter ego theory have been proved, which elements are the existence of a unity of ownership and interest and the use of the corporate form to perpetuate fraud or wrong, courts are required to consider a range of factors, including whether corporate formalities have been observed, whether there has been any commingling of corporate and shareholder funds, staff, and property, whether a single shareholder dominates the corporation, whether the corporation is adequately capitalized, and, especially, whether the corporate form has been used to effectuate a fraud. *Meshel v. Ohev Sholom Talmud Torah*, 869 A.2d 343, 2005 D.C. App. LEXIS 49 (2005).

Imposition of shareholder liability on a corporate officer requires the piercing of the corporate veil. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

A party seeking to pierce the corporate veil and impose personal liability on a corporate officer as a shareholder must prove by affirmative evidence that there is unity of ownership and interest, and use of the corporate form to perpetuate fraud or wrong. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

The inquiry into piercing the corporate veil and imposing personal liability on a corporate officer as a shareholder ultimately turns on whether the corporation is, in reality, an alter ego or business conduit of the person in control. *Lawlor v. District of Columbia*, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Officer of private corporation that was awarded contract to manage nursing home owned by the District of Columbia was personally liable, as a corporate shareholder, to employees on their claim under the Wage Payment Law; corporate veil was pierced by officer's conduct in transferring assets to another corporation that he controlled in order to shield them from taxing authorities, and in misleading employees into believing that their obligations to the government and creditors were being satisfied, was part of a deceptive scheme that proximately led to the collapse of the corporations and the failure to pay wages. *Lawlor v. District*

of Columbia, 758 A.2d 964, 2000 D.C. App. LEXIS 206 (2000).

Where corporate form is a mere sham and is used by those in control to work injustice, it will be disregarded. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

Considerations of equity and justice can justify piercing corporate veil. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

Where corporation was formed with wife as sole stockholder to protect business of husband and wife from claims of husband's judgment creditors, wife extensively commingled corporate with personal funds and formalities of corporate form were in a large part disregarded, judgment creditor of corporation was entitled to have corporate veil pierced on basis that corporation had no independent existence but was used as personal instrumentality of husband and wife and creditor was entitled to recover amount of judgment from husband and wife. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

In action to hold husband and wife personally liable for judgment debt of corporation whose stock was owned by wife, evidence sustained finding that corporation had been formed to protect business of husband and wife from claims of husband's judgment creditors, that wife extensively commingled corporate with personal funds and that formalities of corporate form were in a large part disregarded. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

To pierce corporate veil it is not required that there be showing of fraud directly tainting obligation of which plaintiff is suing. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

In general.

Generally, corporation is regarded as an entity separate and distinct from its shareholders. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

Formation of corporation in order to avoid personal liability is not itself, standing alone, an abuse of corporate power. *Harris v. Wagshal*, 343 A.2d 283, 1975 D.C. App. LEXIS 430 (1975).

§ 29-304.23. Share dividends.

(a) Unless the articles of incorporation provide otherwise, shares may be issued pro rata and without consideration to the corporation's shareholders or to the shareholders of one or more classes or series. An issuance of shares under this subsection shall be a share dividend.

(b) Shares of one class or series shall not be issued as a share dividend in respect of shares of another class or series unless:

(1) The articles of incorporation so authorize;

(2) A majority of the votes entitled to be cast by the class or series to be issued approve the issue; or

(3) There are no outstanding shares of the class or series to be issued.

(c) If the board of directors does not fix the record date for determining shareholders entitled to a share dividend, the record date shall be the date the board of directors authorizes the share dividend.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-304.24. Share options.

(a)(1) A corporation may issue rights, options, or warrants for the purchase of shares or other securities of the corporation. The board of directors shall determine:

(A) The terms upon which the rights, options, or warrants are issued; and

(B) The terms, including the consideration, for which the shares or other securities are to be issued.

(2) The authorization by the board of directors for the corporation to issue the rights, options, or warrants under paragraph (1) of this subsection shall constitute authorization of the issuance of the shares or other securities for which the rights, options, or warrants are exercisable.

(b) The terms and conditions of the rights, options, or warrants, including those outstanding on the effective date of this section, may include restrictions or conditions that:

(1) Preclude or limit the exercise, transfer, or receipt of the rights, options, or warrants by any person owning or offering to acquire a specified number or percentage of the outstanding shares or other securities of the corporation or by any transferee of any such person; or

(2) Invalidate or void the rights, options, or warrants held by any such person or any such transferee.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-304.25. Form and content of certificates.

(a) Shares may, but need not, be represented by certificates. Unless this chapter or another law expressly provides otherwise, the rights and obligations of shareholders shall be identical whether or not their shares are represented by certificates.

(b) At a minimum, each share certificate shall state on its face:

(1) The name of the issuing corporation and that it is organized under the law of the District;

- (2) The name of the person to which issued; and
- (3) The number and class of shares and the designation of the series, if any, the certificate represents.
- (c) If the issuing corporation is authorized to issue different classes of shares or different series within a class, the designations, relative rights, preferences, and limitations applicable to each class and the variations in rights, preferences, and limitations determined for each series, and the authority of the board of directors to determine variations for future series, shall be summarized on the front or back of each certificate. Alternatively, each certificate may state conspicuously on its front or back that the corporation will furnish the shareholder this information on request in writing and without charge.
- (d) Each share certificate:
 - (1) Shall be signed, either manually or in facsimile, by 2 officers designated in the bylaws or by the board of directors; and
 - (2) May bear the corporate seal or its facsimile.
- (e) If the officer who signed, either manually or in facsimile, a share certificate no longer holds office when the certificate is issued, the certificate shall nevertheless be valid.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-304.04 and § 29-304.26.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Agreements.
Restrictions.

Agreements.

Agreement whereby majority stockholder and minority stockholder agreed that their voting power should be equal but which was not endorsed upon stock certificates was not invalid. D.C. Code 1961, § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Parties to fraudulent scheme to induce minority stockholder to pay inflated price for majority stockholder's stock and who knew of agreement between majority stockholder and minority stockholder for equal voting power in corporate affairs were not entitled to claim that voting agreement was invalid because of stock certificates' failure to contain such restriction. D.C. Code 1961, § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060,

133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Restrictions.

Provision which was part of Business Corporation Act of 1901 and required restrictions to be stated on certificate had no application to corporation organized for profit in 1958. D.C. Code §§ 29-201 et seq., 29-239, 29-901 et seq., 29-903, 29-904. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Ostensible transfer of majority stockholder's stock to third party which was part of fraudulent scheme whereby minority stockholder in exercising his first refusal option paid inflated price for majority stockholder's stock would not be held valid merely because certificates failed to have endorsed thereon restriction as to their sale and voting power. D.C. Code 1961, § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Statutory provision that stock certificates must contain statement as to restrictions

thereon was designed for protection of innocent purchasers of stock and could not be used as defense to suit by minority stockholders against those who were parties to fraudulent scheme whereby minority stockholder paid inflated price for majority stockholder's stock.

D.C. Code 1961 § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C.1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

§ 29-304.26. Shares without certificates.

(a) Unless the articles of incorporation or bylaws provide otherwise, the board of directors of a corporation may authorize the issue of some or all of the shares of any or all of its classes or series without certificates. The authorization shall not affect shares already represented by certificates until they are surrendered to the corporation.

(b) Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by § 29-304.25(b) and (c), and, if applicable, § 29-304.27.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-304.27 and § 29-305.42.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-304.27. Restriction on transfer of shares and other securities.

(a) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.

(b) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder or a transferee of the holder if the restriction is authorized by this section and its existence is noted conspicuously on the front or back of the certificate or is contained in the information statement required by § 29-304.26(b). Unless so noted or contained, a restriction shall not be enforceable against a person without knowledge of the restriction.

(c) A restriction on the transfer or registration of transfer of shares is authorized:

(1) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;

(2) To preserve exemptions under federal or state securities law; or

(3) For any other reasonable purpose.

(d) A restriction on the transfer or registration of transfer of shares may:

(1) Obligate the shareholder first to offer the corporation or other persons, separately, consecutively, or simultaneously, an opportunity to acquire the restricted shares;

(2) Obligate the corporation or other persons, separately, consecutively, or simultaneously, to acquire the restricted shares;

(3) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or

(4) Prohibit the transfer of the restricted shares to designated persons or classes of persons if the prohibition is not manifestly unreasonable.

(e) For the purposes of this section, the term “shares” shall include a security convertible into or carrying a right to subscribe for or acquire shares.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-304.26. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-304.28. Expense of issue.

A corporation may pay the expenses of selling or underwriting its shares, and of organizing or reorganizing the corporation, from the consideration received for shares.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.

SUBSEQUENT ACQUISITION OF SHARES BY SHAREHOLDERS AND CORPORATION.

§ 29-304.40. Shareholders’ preemptive rights.

(a) The shareholders of a corporation shall not have a preemptive right to acquire the corporation’s unissued shares except to the extent the articles of incorporation so provide.

(b) A statement included in the articles of incorporation that “the corporation elects to have preemptive rights”, or words of similar import, means that the following principles apply except to the extent the articles of incorporation expressly provide otherwise:

(1) The shareholders of the corporation shall have a preemptive right, granted on uniform terms and conditions prescribed by the board of directors, to provide a fair and reasonable opportunity to exercise the right, to acquire proportional amounts of the corporation’s unissued shares upon the decision of the board of directors to issue them.

(2) A shareholder may waive his preemptive right. A waiver evidenced in a record is irrevocable even though it is not supported by consideration.

(3) There shall be no preemptive right with respect to shares:

(A) Issued as compensation to directors, officers, agents, or employees of the corporation or its subsidiaries or affiliates:

(B) Issued to satisfy conversion or option rights created to provide compensation to directors, officers, agents, or employees of the corporation or its subsidiaries or affiliates;

(C) Authorized in articles of incorporation that are issued within 6 months after the effective date of incorporation;

(D) Sold otherwise than for money.

(4) Holders of shares of any class without general voting rights but with preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class.

(5) Holders of shares of any class with general voting rights but without preferential rights to distributions or assets shall have no preemptive rights with respect to shares of any class with preferential rights to distributions or assets unless the shares with preferential rights are convertible into or carry a right to subscribe for or acquire shares without preferential rights.

(6) Shares subject to preemptive rights that are not acquired by shareholders may be issued to any person for a period of one year after being offered to shareholders at a consideration set by the board of directors that is not lower than the consideration set for the exercise of preemptive rights. An offer at a lower consideration or after the expiration of one year shall be subject to the shareholders' preemptive rights.

(c) For the purposes of this section, the term "shares" shall include a security convertible into or carrying a right to subscribe for or acquire shares.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-304.41. Corporation's acquisition of its own shares.

(a) A corporation may acquire its own shares and shares so acquired shall constitute authorized but unissued shares.

(b) If the articles of incorporation prohibit the reissue of the acquired shares, the number of authorized shares shall be reduced by the number of shares acquired.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.05.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

CASE NOTES

ANALYSIS

Actions and proceedings.
In general.

Actions and proceedings.

Although corporation was solvent both before and after repurchase of its own shares and transaction was not made in contemplation of

bankruptcy, a factual question remained as to whether repurchase violated corporation statute and, if it did not, whether corporation was nevertheless prohibited by state from paying for such shares after it became insolvent, warranting remand to bankruptcy court to make necessary factual determination. D.C. Code 1981, §§ 29-101 to 29-399.50, 29-305. *Reiner v. Washington Plate Glass Co.*, 711 F.2d 414, 1983 U.S. App. LEXIS 25629 (C.A.D.C. 1983).

to sell stock for promissory note. D.C. Code 1981, § 29-317. *Public Invest., Ltd. v. Bandeirante Corp.*, 740 F.2d 1222, 1984 U.S. App. LEXIS 19867 (C.A.D.C. 1984).

In general.

District of Columbia law forbids corporations

PART D.

DISTRIBUTIONS TO SHAREHOLDERS.

§ 29-304.60. Distributions to shareholders.

(a) A board of directors may authorize, and the corporation may make, distributions to its shareholders subject to restriction by the articles of incorporation and the limitation in subsection (c) of this section.

(b) If the board of directors does not fix the record date for determining shareholders entitled to a distribution, other than one involving a purchase, redemption, or other acquisition of the corporation's shares, the record date shall be the date the board of directors authorizes the distribution.

(c) A distribution shall not be made if, after giving it effect:

(1) The corporation would not be able to pay its debts as they become due in the usual course of business; or

(2) The corporation's total assets would be less than the sum of its total liabilities plus, unless the articles of incorporation permit otherwise, the amount that would be needed, if the corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of shareholders whose preferential rights are superior to those receiving the distribution.

(d) The board of directors may base a determination that a distribution is not prohibited under subsection (c) of this section either on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(e) Except as otherwise provided in subsection (g) of this section, the effect of a distribution under subsection (c) shall be measured:

(1) In the case of distribution by purchase, redemption, or other acquisition of the corporation's shares, as of the earlier of the date that:

(A) Money or other property is transferred or debt incurred by the corporation; or

(B) The shareholder ceases to be a shareholder with respect to the acquired shares;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) In all other cases, as of the date that:

(A) The distribution is authorized if the payment occurs within 120 days after the date of authorization; or

(B) The payment is made if it occurs more than 120 days after the date of authorization.

(f) A corporation's indebtedness to a shareholder incurred by reason of a distribution made in accordance with this section shall be at parity with the corporation's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(g) Indebtedness of a corporation, including indebtedness issued as a distribution, shall not be considered a liability for the purposes of determinations under subsection (c) of this section if its terms provide that payment of principal and interest are made only if and to the extent that payment of a distribution to shareholders could be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest shall be treated as a distribution, the effect of which is measured on the date the payment is made.

(h) This section shall not apply to distributions in liquidation under subchapter XII of this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-304.03, § 29-305.42, § 29-306.32, and § 29-312.24.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter V. Shareholders.

PART A.

MEETINGS.

§ 29-305.01. Annual meeting.

(a) Unless directors are elected by written consent in lieu of an annual meeting as permitted by § 29-305.04, a corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws. However, if a corporation's articles of incorporation authorize shareholders to cumulate their votes when electing directors pursuant to § 29-305.28, directors shall not be elected by less than unanimous consent.

(b) Annual shareholders' meetings may be held in or outside of the District at the place stated in or fixed in accordance with the bylaws. If no place is stated in or fixed in accordance with the bylaws, annual meetings shall be held at the corporation's principal office.

(c) The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws shall not affect the validity of any corporate action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-305.02. Special meeting.

(a) A corporation shall hold a special meeting of shareholders:

(1) On call of its board of directors or the person or persons authorized to do so by the articles of incorporation or bylaws; or

(2) Subject to subsection (b) of this section, if the holders of at least 10% of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more written demands for the meeting describing the purpose or purposes for which it is to be held; provided, that the articles of incorporation may fix a lower percentage or a higher percentage not exceeding 25% of all the votes entitled to be cast on any issue proposed to be considered.

(b) Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing to that effect received by the corporation before the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

(c) If not otherwise fixed under § 29-305.03 or [§] 29-305.07, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

(d) Special shareholders' meetings may be held in or outside of the District at the place stated in or fixed in accordance with the bylaws. If no place is stated or fixed in accordance with the bylaws, special meetings must be held at the corporation's principal office.

(e) Only business within the purpose or purposes described in the meeting notice required by § 29-305.05(c) may be conducted at a special shareholders' meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.03.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.03. Court-ordered meeting.

(a) The Superior Court may summarily order a meeting to be held on application of a shareholder:

(1) Entitled to participate in an annual meeting if an annual meeting was not held or action by written consent in lieu thereof did not become effective within the earlier of 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting; or

(2) That signed a demand for a special meeting valid under § 29-305.02, if:

(A) Notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary; or

(B) The special meeting was not held in accordance with the notice.

(b) The Superior Court may fix the time and place of the meeting, determine the shares entitled to participate in the meeting, specify a record date for determining shareholders entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose or purposes of the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.02 and § 29-305.05. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.04. Action without meeting.

(a) Action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting if the action is taken by all the shareholders entitled to vote on the action. The action shall be evidenced by one or more consents in a record bearing the date of signature and describing the action taken, signed by all the shareholders entitled to vote on the action and delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) The articles of incorporation may provide that any action required or permitted by this chapter to be taken at a shareholders' meeting may be taken without a meeting, and without prior notice, if consents in a record setting forth the action so taken are signed by the holders of outstanding shares having not less than the minimum number of votes that would be required to authorize or take the action at a meeting at which all shares entitled to vote on the action were present and voted. The consent in a record shall bear the date of signature of the shareholder that signs the consent and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(c) If not otherwise fixed under § 29-305.07 and if prior board action is not required with respect to the action to be taken without a meeting, the record date for determining the shareholders entitled to take action without a meeting shall be the first date on which a signed consent in a record is delivered to the corporation. If not otherwise fixed under § 29-305.07 and if prior board action is required with respect to the action to be taken without a meeting, the record date shall be the close of business on the day the resolution of the board taking such prior action is adopted. No consent in a record is effective to take the corporate action referred to therein unless, within 60 days of the earliest date on which a consent delivered to the corporation as required by this section was signed, consents in a record signed by sufficient shareholders to take the action have been delivered to the corporation. A consent in a record may be revoked by a record to that effect delivered to the corporation before unrevoked consents in a record sufficient in number to take the corporate action are delivered to the corporation.

(d) A consent signed pursuant to this section shall have the effect of a vote

taken at a meeting and may be described as such in any document. Unless the articles of incorporation, bylaws, or a resolution of the board of directors provides for a reasonable delay to permit tabulation of consents in a record, the action taken by consent in a record shall be effective when consents in a record signed by sufficient shareholders to take the action are delivered to the corporation.

(e)(1) If this chapter requires that notice of a proposed action be given to nonvoting shareholders and the action is to be taken by consent in a record of the voting shareholders, the corporation shall give its nonvoting shareholders notice in a record of the action not more than 10 days after:

(A) Consents in a record sufficient to take the action have been delivered to the corporation; or

(B) Such later date that tabulation of consents is completed pursuant to an authorization under subsection (d) of this section.

(2) The notice under paragraph (1) of this subsection shall reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to nonvoting shareholders in a notice of a meeting at which the proposed action would have been submitted to the shareholders for action.

(f)(1) If action is taken by less than unanimous consent in a record of the voting shareholders, the corporation shall give its nonconsenting voting shareholders written notice of the action not more than 10 days after:

(A) Consents in a record sufficient to take the action have been delivered to the corporation; or

(B) Such later date that tabulation of consents is completed pursuant to an authorization under subsection (d) of this section.

(2) The notice under paragraph (1) of this subsection shall reasonably describe the action taken and contain or be accompanied by the same material that, under any provision of this chapter, would have been required to be sent to voting shareholders in a notice of a meeting at which the action would have been submitted to the shareholders for action.

(g) The notice requirements in subsections (e) and (f) shall not delay the effectiveness of actions taken by consent in a record and a failure to comply with such notice requirements shall not invalidate actions taken by consent in a record; provided, that this subsection shall not limit judicial power to fashion any appropriate remedy in favor of a shareholder adversely affected by a failure to give the notice within the required time period.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(7), 59 DCR 13171.)

Section references. — This section is referenced in § 29-305.01, § 29-311.10, and § 29-311.50.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-305.05. Notice of meeting.

(a) A corporation shall notify shareholders of the date, time, and place of each annual and special shareholders' meeting no less than 10, or more than, 60 days before the meeting date. If the board of directors has authorized participation by means of remote communication pursuant to § 29-305.09 for any class or series of shareholders, the notice to such class or series of shareholders shall describe the means of remote communication to be used. Unless this chapter or the articles of incorporation require otherwise, the corporation shall give notice only to shareholders entitled to vote at the meeting.

(b) Unless this chapter or the articles of incorporation require otherwise, notice of an annual meeting need not include a description of the purpose or purposes for which the meeting is called.

(c) Notice of a special meeting shall include a description of the purpose or purposes for which the meeting is called.

(d) If not otherwise fixed under § 29-305.03 or [§] 29-305.07, the record date for determining shareholders entitled to notice of and to vote at an annual or special shareholders' meeting shall be the day before the 1st notice is delivered to shareholders.

(e) Unless the bylaws require otherwise, if an annual or special shareholders' meeting is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment; provided, that if a new record date for the adjourned meeting is or must be fixed under § 29-305.07, notice of the adjourned meeting shall be given under this section to persons that are shareholders as of the new record date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(8), 59 DCR 13171.)

Section references. — This section is referenced in § 29-305.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the second sentence in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Waiver and estoppel.

While a director of a corporation may not legally delegate his powers, he may waive notice of meetings of the board, and, after having

done so, he is estopped to allege lack of notice. *Las Ovas Co. v. Davis*, 35 App.D.C. 372, 1910 U.S. App. LEXIS 5912 (1910).

§ 29-305.06. Waiver of notice.

(a) A shareholder may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. The waiver shall be in a record, be signed by the shareholder entitled

to the notice, and be delivered to the corporation for inclusion in the minutes or filing with the corporate records.

(b) A shareholder's attendance at a meeting waives object to:

(1) Lack of notice or defective notice of the meeting, unless the shareholder, at the beginning of the meeting, objects to holding the meeting or transacting business at the meeting; and

(2) Consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the shareholder objects to considering the matter when it is presented.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(9), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "in a record" for "in writing" in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-305.07. Record date.

(a) The bylaws may fix or provide the manner of fixing the record date for one or more voting groups to determine the shareholders entitled to notice of a shareholders' meeting, to demand a special meeting, to vote, or to take any other action. If the bylaws do not fix or provide for fixing a record date, the board of directors of the corporation may fix a future date as the record date.

(b) A record date fixed under this section shall not be more than 70 days before the meeting or action requiring a determination of shareholders.

(c) A determination of shareholders entitled to notice of or to vote at a shareholders' meeting shall be effective for any adjournment of the meeting unless the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(d) If a Superior Court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.02, § 29-305.04, and § 29-305.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-305.08. Conduct of the meeting.

(a) At each meeting of shareholders, a chair shall preside. The chair shall be appointed as provided in the bylaws or, in the absence of such provision, by the board.

(b) The chair, unless the articles of incorporation or bylaws provide other-

wise, shall determine the order of business and may establish rules for the conduct of the meeting.

(c) Any rules adopted for, and the conduct of, the meeting shall be fair to shareholders.

(d) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes, or any revocations or changes thereto, shall be accepted.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-305.09. Remote participation in annual and special meetings.

(a) Shareholders of any class or series may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation by means of remote communication shall be subject to such guidelines and procedures as the board of directors adopts, and shall be in conformity with subsection (b) of this section.

(b) Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures:

- (1) To verify that each person participating remotely is a shareholder; and
- (2) To provide such shareholders a reasonable opportunity to participate in the meeting and to vote, including the opportunity to communicate with other shareholders participating in the meeting and to read or hear the proceedings of the meeting as the meeting is taking place.

(Mar. 5, 2013, D.C. Law 19-210, § 2(c)(10), 59 DCR 13171.)

Section references. — This section is referenced in § 29-305.05, § 29-910, § 29-911, and § 29-912.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

PART B.

VOTING.

§ 29-305.20. Shareholders' list for meeting.

(a) After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders that are entitled to notice of a shareholders' meeting. The list shall:

(1) Be arranged by voting group and, within each voting group, by class or series; and

(2) Show the address of and number of shares held by each shareholder.

(b) The shareholders' list must be available for inspection by any shareholder, beginning 2 business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A shareholder, or the shareholder's agent or attorney, shall be entitled on demand in record to inspect and, subject to § 29-313.02(c), to copy the list, during regular business hours and at the shareholder's expense, during the period it is available for inspection.

(c) The corporation shall make the shareholders' list available at the meeting and any shareholder, or the shareholder's agent or attorney, shall be entitled to inspect the list at any time during the meeting or any adjournment.

(d) If the corporation refuses to allow a shareholder, or the shareholder's agent or attorney, to inspect the shareholders' list before or at the meeting, or copy the list as permitted by subsection (b) of this section, the Superior Court, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

(e) Refusal or failure to prepare or make available the shareholders' list shall not affect the validity of action taken at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(11), 59 DCR 13171.)

Section references. — This section is referenced in § 29-313.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "demand in record" for "written demand" in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-305.21. Voting entitlement of shares.

(a) Except as otherwise provided in subsections (b) and (d) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, shall be entitled to one vote on each matter voted on at a shareholders' meeting. Only shares shall be entitled to vote.

(b) Absent special circumstances, the shares of a corporation shall not be entitled to vote if they are owned, directly or indirectly, by a second corporation, domestic or foreign, and the first corporation owns, directly or indirectly, a majority of the shares entitled to vote for directors of the second corporation.

(c) Subsection (b) of this section shall not limit the power of a corporation to vote any shares, including its own shares, held by it in a fiduciary capacity.

(d) Redeemable shares shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an

irrevocable obligation to pay the holders the redemption price on surrender of the shares.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Agreements as to voting.
Certificates.
Record date.

Agreements as to voting.

Agreement whereby majority stockholder and minority stockholder agreed that their voting power should be equal but which was not endorsed upon stock certificates was not invalid. D.C. Code 1961, § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Parties to fraudulent scheme to induce minority stockholder to pay inflated price for majority stockholder's stock and who knew of agreement between majority stockholder and minority stockholder for equal voting power in corporate affairs were not entitled to claim that voting agreement was invalid because of stock certificates' failure to contain such restriction. D.C. Code 1961, § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Certificates.

Ostensible transfer of majority stockholder's stock to third party which was part of fraudulent scheme whereby minority stockholder in

exercising his first refusal option paid inflated price for majority stockholder's stock would not be held valid merely because certificates failed to have endorsed thereon restriction as to their sale and voting power. D.C. Code 1961, § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Statutory provision that stock certificates must contain statement as to restrictions thereon was designed for protection of innocent purchasers of stock and could not be used as defense to suit by minority stockholders against those who were parties to fraudulent scheme whereby minority stockholder paid inflated price for majority stockholder's stock. D.C. Code 1961 § 28-2915; D.C. Code §§ 29-908g, 29-911. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

Record date.

Board of directors of corporation did not breach fiduciary duty to shareholders by resetting "record date" for scheduled shareholder meeting to vote on merger proposal, even though resetting date was advantageous to merger proposal favored by board of directors. D.C. Code 1981, § 29-328. *Woodward & Lothrop, Inc. v. Schnabel*, 593 F. Supp. 1385, 1984 U.S. Dist. LEXIS 23730 (1984).

§ 29-305.22. Proxies.

(a) A shareholder may vote the shareholder's shares in person or by proxy.

(b) An appointment of a proxy shall be effective when a signed appointment form or an electronic transmission of the appointment is received by the inspector of election or the officer or agent of the corporation authorized to tabulate votes. An appointment is valid for 11 months unless a longer period is expressly provided in the appointment form.

(c) An appointment of a proxy shall be revocable unless the appointment form or electronic transmission states that it is irrevocable and the appoint-

ment is coupled with an interest. Appointments coupled with an interest shall include the appointment of:

- (1) A pledgee;
- (2) A person that purchased or agreed to purchase the shares;
- (3) A creditor of the corporation that extended it credit under terms requiring the appointment;
- (4) An employee of the corporation whose employment contract requires the appointment; or
- (5) A party to a voting agreement created under § 29-305.41.

(d) The death or incapacity of the shareholder appointing a proxy shall not affect the right of the corporation to accept the proxy's authority unless notice of the death or incapacity is received by the secretary or other officer or agent authorized to tabulate votes before the proxy exercises authority under the appointment.

(e) An appointment made irrevocable under subsection (d) of this section shall be revoked when the interest with which it is coupled is extinguished.

(f) A transferee for value of shares subject to an irrevocable appointment may revoke the appointment if the transferee did not know of its existence when acquiring the shares and the existence of the irrevocable appointment was not noted conspicuously on the certificate representing the shares or on the information statement for shares without certificates.

(g) Subject to § 29-305.24 and to any express limitation on the proxy's authority stated in the appointment form or electronic transmission, a corporation shall be entitled to accept the proxy's vote or other action as that of the shareholder making the appointment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(12), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 repealed former (b), which read: "A shareholder, or the shareholder's agent or attorney-in-fact, may appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form or by an electronic transmission. An electronic transmission shall contain or be accompanied by information from which one can determine that the shareholder, the shareholder's agent, or the shareholder's attorney-in-fact authorized

the transmission."; and redesignated (c) through (h) as (b) through (g), respectively.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-305.23. Shares held by nominees.

(a) A corporation may establish a procedure by which the beneficial owner of shares that are registered in the name of a nominee is recognized by the corporation as the shareholder. The extent of this recognition may be determined in the procedure.

(b) The procedure may set forth:

- (1) The types of nominees to which it applies;
- (2) The rights or privileges that the corporation recognizes in a beneficial owner;

- (3) The manner in which the procedure is selected by the nominee;
- (4) The information that must be provided when the procedure is selected;
- (5) The period for which selection of the procedure is effective; and
- (6) Other aspects of the rights and duties created.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-305.24. Corporation's acceptance of votes.

(a) If the name signed on a vote, consent, waiver, or proxy appointment corresponds to the name of a shareholder, the corporation, if acting in good faith, shall be entitled to accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder.

(b) If the name signed on a vote, consent, waiver, or proxy appointment does not correspond to the name of its shareholder, the corporation if acting in good faith may nevertheless accept the vote, consent, waiver, or proxy appointment and give it effect as the act of the shareholder if:

(1) The shareholder is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the shareholder and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(3) The name signed purports to be that of a receiver or trustee in bankruptcy of the shareholder and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the vote, consent, waiver, or proxy appointment;

(4) The name signed purports to be that of a pledgee, beneficial owner, or attorney-in-fact of the shareholder and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the shareholder has been presented with respect to the vote, consent, waiver, or proxy appointment; or

(5) Two or more persons are the shareholder as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(c) The corporation may reject a vote, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the shareholder.

(d) The corporation and its officer or agent who accepts or rejects a vote, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or § 29-301.03(d) shall not be liable in damages to the shareholder for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a vote, consent, waiver, or proxy appointment under this section shall be valid unless the Superior Court determines otherwise.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(13), 59 DCR 13171.)

Section references. — This section is referenced in § 29-305.22.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “§ 29-301.03(d)” for “§ 29-305.22(b)” in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-305.25. Quorum and voting requirements for voting groups.

(a) Shares entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those shares exists with respect to that matter. Unless the articles of incorporation provides otherwise, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a share is represented for any purpose at a meeting, it shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter, other than the election of directors, by a voting group shall be approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation require a greater number of affirmative votes.

(d) An amendment of articles of incorporation adding, changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (a) or (c) of this section shall be governed by § 29-305.27.

(e) The election of directors shall be governed by § 29-305.28.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.26.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Close corporations.
In general.

Close corporations.

Business and affairs of a corporation are to be managed by board of directors but close corporations may act informally. D.C. Code 1981, § 29-332(a). *International Tours & Travel, Inc. v. Khalil*, 491 A.2d 1149, 1985 D.C. App. LEXIS 385 (1985).

In general.

Employee’s discharge because he exercised

his vote as member of board of directors of wholly-owned subsidiary of employer in manner contrary to interest expressed by parent company’s chief executive officer, who was also his immediate supervisor, did not trigger exception to at-will employment doctrine for discharge in violation of public policy. *Atkins v. Industrial Telecommunications Ass’n*, 660 A.2d 885, 1995 D.C. App. LEXIS 114 (1995).

§ 29-305.26. Action by single and multiple voting groups.

(a) If the articles of incorporation or this chapter provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in § 29-305.25.

(b) If the articles of incorporation or this chapter provide for voting by 2 or more voting groups on a matter, action on that matter is taken only when voted upon by each of those voting groups counted separately as provided in § 29-305.25. Action may be taken by one voting group on a matter even though no action is taken by another voting group entitled to vote on the matter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-305.27. Greater quorum or voting requirements.

(a) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders, or voting groups of shareholders, than is provided for by this chapter.

(b) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.25. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.28. Voting for directors; cumulative voting.

(a) Unless otherwise provided in the articles of incorporation, directors shall be elected by a plurality of the votes cast by the shares entitled to vote in the election at a meeting at which a quorum is present.

(b) Shareholders shall not have a right to cumulate their votes for directors unless the articles of incorporation so provide.

(c) A statement included in the articles of incorporation that “all” or “a designated voting group” “of shareholders are entitled to cumulate their votes for directors”, or words of similar import, means that the shareholders designated are entitled to multiply the number of votes they are entitled to cast by the number of directors for whom they are entitled to vote and cast the product for a single candidate or distribute the product among 2 or more candidates.

(d) Shares otherwise entitled to vote cumulatively shall not be voted cumulatively at a particular meeting unless:

(1) The meeting notice or proxy statement accompanying the notice states conspicuously that cumulative voting is authorized; or

(2)(A) A shareholder that has the right to cumulate his votes gives notice to the corporation not less than 48 hours before the time set for the meeting of the shareholder's intent to cumulate votes during the meeting.

(B) If one shareholder gives this notice, all other shareholders in the same voting group participating in the election shall be entitled to cumulate their votes without giving further notice.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.01, § 29-305.25, and § 29-308.22.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

Employee's discharge because he exercised his vote as member of board of directors of wholly-owned subsidiary of employer in manner contrary to interest expressed by parent company's chief executive officer, who was also

his immediate supervisor, did not trigger exception to at-will employment doctrine for discharge in violation of public policy. *Atkins v. Industrial Telecommunications Ass'n*, 660 A.2d 885, 1995 D.C. App. LEXIS 114 (1995).

§ 29-305.29. Inspectors of election.

(a) A public corporation shall, and any other corporation may, appoint one or more inspectors to act at a meeting of shareholders and make a written report of the inspectors' determinations. Each inspector shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of the inspector's ability.

(b) The inspectors shall:

(1) Ascertain the number of shares outstanding and the voting power of each;

(2) Determine the shares represented at a meeting;

(3) Determine the validity of proxies and ballots;

(4) Count all votes; and

(5) Determine the result.

(c) An inspector may be an officer or employee of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.22.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART C.

VOTING TRUSTS AND AGREEMENTS.

§ 29-305.40. Voting trusts.

(a) One or more shareholders may create a voting trust, conferring on a trustee the right to vote or otherwise act for them, by signing an agreement setting out the provisions of the trust, which may include anything consistent with its purpose, and transferring their shares to the trustee. When a voting trust agreement is signed, the trustee shall prepare a list of the names and addresses of all owners of beneficial interests in the trust, together with the number and class of shares each transferred to the trust, and deliver copies of the list and agreement to the corporation's principal office.

(b) A voting trust shall be effective on the date the 1st shares subject to the trust are registered in the trustee's name. A voting trust shall not be valid for not more than 10 years after its effective date unless extended under subsection (c) of this section.

(c) All or some of the parties to a voting trust may extend it for additional terms of not more than 10 years each by signing written consent to the extension. An extension shall be valid for 10 years after the date the 1st shareholder signs the extension agreement. The voting trustee shall deliver copies of the extension agreement and list of beneficial owners to the corporation's principal office. An extension agreement binds only those parties signing it.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.41. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.41. Voting agreements.

(a) Two or more shareholders may provide for the manner in which they will vote their shares by signing an agreement for that purpose. A voting agreement created under this section shall not be subject to § 29-305.40.

(b) A voting agreement created under this section shall be specifically enforceable.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.42. Shareholder agreements.

(a) An agreement among the shareholders of a corporation that complies with this section shall be effective among the shareholders and the corporation

even though it is inconsistent with one or more other provisions of this chapter in that it:

- (1) Eliminates the board of directors or restricts the discretion or powers of the board of directors;
- (2) Governs the authorization or making of distributions whether or not in proportion to ownership of shares, subject to the limitations in § 29-304.60;
- (3) Establishes who will be directors or officers of the corporation, their terms of office, or manner of their selection or removal;
- (4) Governs, in general or in regard to specific matters, the exercise or division of voting power by or between the shareholders and directors or by or among any of them, including use of weighted voting rights or director proxies;
- (5) Establishes the terms and conditions of any agreement for the transfer or use of property or the provision of services between the corporation and any shareholder, director, officer, or employee of the corporation or among any of them;
- (6) Transfers to one or more shareholders or other persons all or part of the authority to exercise the corporate powers or to manage the activities and affairs of the corporation, including the resolution of any issue about which there exists a deadlock among directors or shareholders;
- (7) Requires dissolution of the corporation at the request of one or more of the shareholders or upon the occurrence of a specified event or contingency; or
- (8) Otherwise governs the exercise of the corporate powers or the management of the activities and affairs of the corporation or the relationship among the shareholders, the directors, and the corporation, or among any of them, and is not contrary to public policy.

(b) An agreement authorized by this section shall be:

(1) Set forth in:

(A) The articles of incorporation or bylaws and approved by all persons that are shareholders at the time of the agreement; or

(B) A written agreement that is signed by all persons that are shareholders at the time of the agreement and is made known to the corporation;

(2) Subject to amendment only by all persons that are shareholders at the time of the amendment, unless the agreement provides otherwise; and

(3) Valid for 10 years, unless the agreement provides otherwise.

(c) The existence of an agreement authorized by this section shall be noted conspicuously on the front or back of each certificate for outstanding shares or on the information statement required by § 29-304.26(b). If, at the time of the agreement, the corporation has shares outstanding represented by certificates, the corporation shall recall the outstanding certificates and issue substitute certificates that comply with this subsection. The failure to note the existence of the agreement on the certificate or information statement shall not affect the validity of the agreement or any action taken pursuant to it. Any purchaser of shares that, at the time of purchase, did not have knowledge of the existence of the agreement may rescind the purchase. A purchaser shall be deemed to have knowledge of the existence of the agreement if its existence is noted on the certificate or information statement for the shares in compliance with this subsection and, if the shares are not represented by a certificate, the informa-

tion statement is delivered to the purchaser at or prior to the time of purchase of the shares. An action to enforce the right of rescission authorized by this subsection shall be commenced within the earlier of 90 days after discovery of the existence of the agreement or 2 years after the time of purchase of the shares.

(d) An agreement authorized by this section shall cease to be effective when the corporation becomes a public corporation. If the agreement ceases to be effective for any reason, the board of directors may, if the agreement is contained or referred to in the corporation's articles of incorporation or bylaws, adopt an amendment to the articles of incorporation or bylaws, without shareholder action, to delete the agreement and any references to it.

(e) An agreement authorized by this section that limits the discretion or powers of the board of directors relieves the directors of, and imposes upon the person or persons in which the discretion or powers are vested, liability for acts or omissions imposed by law on directors to the extent that the discretion or powers of the directors are limited by the agreement.

(f) The existence or performance of an agreement authorized by this section shall not be a ground for imposing personal liability on any shareholder for the acts or debts of the corporation even if the agreement or its performance treats the corporation as if it were a partnership or results in failure to observe the corporate formalities otherwise applicable to the matters governed by the agreement.

(g) Incorporators or subscribers for shares may act as shareholders with respect to an agreement authorized by this section if no shares have been issued when the agreement is made.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(14), 59 DCR 13171.)

Section references. — This section is referenced in § 29-306.01 and § 29-1303.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (a)(6) and (a)(8).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

PART D.

DERIVATIVE PROCEEDINGS.

§ 29-305.50. Definitions.

For the purposes of this part, the term:

(1) “Derivative proceeding” means a civil action in the right of a domestic corporation or, to the extent provided in § 29-305.57, in the right of a foreign corporation.

(2) “Shareholder” includes a beneficial owner whose shares are held in a voting trust or held by a nominee on the beneficial owner's behalf.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-305.51. Standing.

A shareholder shall not commence or maintain a derivative proceeding unless the shareholder:

(1) Was a shareholder of the corporation at the time of the act or omission complained of or became a shareholder through transfer by operation of law from one that was a shareholder at that time; and

(2) Fairly and adequately represents the interests of the corporation in enforcing the right of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.09. **history of Law 18-378, see notes under § 29-101.01.**

Legislative history of Law 18-378. — For

§ 29-305.52. Demand.

A shareholder shall not commence a derivative proceeding until:

(1) A written demand has been made upon the corporation to take suitable action; and

(2) Ninety days have expired from the date the delivery of the demand was made unless

(A) The shareholder has earlier been notified that the demand has been rejected by the corporation; or

(B) Irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(15), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “the delivery of the demand” for “the demand” in (2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-305.53. Stay of proceedings.

If the corporation commences an inquiry into the allegations made in the demand or complaint, the Superior Court may stay any derivative proceeding for such period as the court consider appropriate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.57. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.54. Dismissal.

(a) The Superior Court shall dismiss a derivative proceeding on motion by the corporation if one of the groups specified in subsection (b) or subsection (e) of this section has determined in good faith, after conducting a reasonable inquiry upon which its conclusions are based, that the maintenance of the derivative proceeding is not in the best interests of the corporation.

(b) Unless a panel is appointed pursuant to subsection (e) of this section, the determination in subsection (a) of this section shall be made by a majority vote of:

(1) Qualified directors present at a meeting of the board of directors if the qualified directors constitute a quorum; or

(2) A committee consisting of 2 or more qualified directors appointed by majority vote of qualified directors present at a meeting of the board of directors, regardless of whether the qualified directors constitute a quorum.

(c) If a derivative proceeding is commenced after a determination has been made rejecting a demand by a shareholder, the complaint shall allege with particularity facts establishing that:

(1) A majority of the board of directors did not consist of qualified directors at the time the determination was made; or

(2) The requirements of subsection (a) of this section have not been met.

(d) If a majority of the board of directors consisted of qualified directors at the time the determination was made, the plaintiff shall have the burden of proving that the requirements of subsection (a) of this section have not been met. Otherwise, the corporation has the burden of proving that the requirements of subsection (a) of this section have been met.

(e) Upon motion by the corporation, the Superior Court may appoint a panel of one or more individuals to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff has the burden of proving that the requirements of subsection (a) of this section have not been met.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-301.21. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.55. Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the Superior Court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given to the shareholders affected.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.57. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.56. Payment of expenses.

On termination of the derivative proceeding, the Superior Court may order:

(1) The corporation to pay the plaintiff's expenses incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(2) The plaintiff to pay any defendant's expenses incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(3) A party to pay an opposing party's expenses incurred because of the filing of a pleading, motion, or other paper if it finds that the pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.57. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-305.57. Applicability to foreign corporations.

In any derivative proceeding in the right of a foreign corporation, the matters covered by this part shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation, except for §§ 29-305.53, 29-305.55, and 29-305.56.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-305.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART E.

PROCEEDING TO APPOINT CUSTODIAN OR RECEIVER.

§ 29-305.70. Shareholder action to appoint custodian or receiver.

(a) The Superior Court may appoint one or more persons to be custodians or, if the corporation is insolvent, to be receivers, of and for a corporation in a proceeding by a shareholder if it is established that:

(1) The directors are deadlocked in the management of the corporate

affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered; or

(2) The directors or those in control of the corporation are acting fraudulently and irreparable injury to the corporation is threatened or being suffered.

(b) The Superior Court:

(1) May issue injunctions, appoint a temporary custodian or temporary receiver with all the powers and duties the court directs, take other action to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing is held;

(2) Shall hold a full hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a custodian or receiver; and

(3) Shall have jurisdiction over the corporation and all of its property, wherever located.

(c) The Superior Court may appoint an individual or domestic or foreign corporation, authorized to do business in the District, as a custodian or receiver and may require the custodian or receiver to post bond, with or without sureties, in an amount the court directs.

(d) The Superior Court shall describe the powers and duties of the custodian or receiver in its appointing order, which may be amended. Among other powers:

(1) A custodian may exercise all of the powers of the corporation, through or in place of its board of directors, to the extent necessary to manage the activities and affairs of the corporation; and

(2) A receiver may:

(A) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

(B) Sue and defend in the receiver's own name as receiver.

(e) The Superior Court during a custodianship may redesignate the custodian a receiver and, during a receivership, may redesignate the receiver a custodian, if doing so is in the best interests of the corporation.

(f) The Superior Court, during the custodianship or receivership, may order compensation paid and expense disbursements or reimbursements made to the custodian or receiver from the assets of the corporation or proceeds from the sale of its assets.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(16), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (d)(1).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VI. Directors and Officers.

PART A.

BOARD OF DIRECTORS.

§ 29-306.01. Requirement for and functions of board of directors.

(a) Except as otherwise provided in § 29-305.42, each corporation shall have a board of directors.

(b) All corporate powers shall be exercised by or under the authority of the board of directors of the corporation and the activities and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of its board of directors, subject to any limitation set forth in the articles of incorporation or in an agreement authorized under § 29-305.42.

(c) In the case of a public corporation, the board's oversight responsibilities shall include attention to:

- (1) Business performance and plans;
- (2) Major risks to which the corporation is or may be exposed;
- (3) The performance and compensation of senior officers;
- (4) Policies and practices to foster the corporation's compliance with law and ethical conduct;
- (5) Preparation of the corporation's financial statements;
- (6) The effectiveness of the corporation's internal controls;
- (7) Arrangements for providing adequate and timely information to directors; and
- (8) The composition of the board and its committees, taking into account the important role of independent directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(17), 59 DCR 13171.)

Section references. — This section is referenced in § 29-306.25.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities" for "business" in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-306.02. Qualifications of directors.

The articles of incorporation or bylaws may prescribe qualifications for directors. A director need not be a resident of the District or a shareholder of the corporation unless the articles of incorporation or bylaws so prescribe.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.03. Number and election of directors.

(a) A board of directors shall consist of one or more individuals, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(b) The number of directors may be increased or decreased by amendment to, or in the manner provided in, the articles of incorporation or the bylaws.

(c) Directors shall be elected at the 1st annual shareholders' meeting and at each annual meeting thereafter unless their terms are staggered under § 29-306.06.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.04. Election of directors by certain classes of shareholders.

If the articles of incorporation authorize dividing the shares into classes, the articles may also authorize the election of all or a specified number of directors by the holders of one or more authorized classes of shares. A class or classes of shares entitled to elect one or more directors shall be a separate voting group for the purposes of the election of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.05. Terms of directors generally.

(a) The terms of the initial directors of a corporation expire at the 1st shareholders' meeting at which directors are elected.

(b) The terms of all other directors shall expire at the next, or if their terms are staggered in accordance with § 29-306.06, at the applicable 2nd or 3rd, annual shareholders' meeting following their election, except to the extent:

(1) Provided in § 29-308.22 if a bylaw electing to be governed by that section is in effect; or

(2) A shorter term is specified in the articles of incorporation in the event of a director nominee failing to receive a specified vote for election.

(c) A decrease in the number of directors shall not shorten an incumbent director's term.

(d) The term of a director elected to fill a vacancy shall expire at the next shareholders' meeting at which directors are elected.

(e) Except to the extent otherwise provided in the articles of incorporation or

under § 29-308.22, if a bylaw electing to be governed by that section is in effect, despite the expiration of a director's term, the director shall continue to serve until the director's successor is elected and qualifies or there is a decrease in the number of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.06. Staggered terms for directors.

The articles of incorporation may provide for staggering the terms of directors by dividing the total number of directors into 2 or 3 groups, with each group containing $\frac{1}{2}$ or $\frac{1}{3}$ of the total, as near as may be practicable. In that event, the terms of directors in the 1st group expire at the 1st annual shareholders' meeting after their election, the terms of the 2nd group expire at the 1st annual shareholders' meeting after their election, and the terms of the 3rd group, if any, expire at the 3rd annual shareholders' meeting after their election. At each annual shareholders' meeting held thereafter, directors shall be chosen for a term of 2 years or 3 years, as the case may be, to succeed those whose terms expire.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.03 and § 29-306.05. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.07. Resignation of directors.

(a) A director may resign at any time by delivering a written resignation to the board of directors, or its chair, or to the secretary of the corporation.

(b) A resignation shall be effective when the resignation is delivered unless the resignation specifies a later effective date or an effective date determined upon the happening of an event or events. A resignation that is conditioned upon failing to receive a specified vote for election as a director may provide that it is irrevocable.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.10. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.08. Removal of directors by shareholders.

(a) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors shall be removed only for cause.

(b) If a director is elected by a voting group of shareholders, only the

shareholders of that voting group shall participate in the vote to remove that director.

(c) If cumulative voting is authorized, a director shall not be removed if the number of votes sufficient to elect the director under cumulative voting is voted against removal. If cumulative voting is not authorized, a director shall be removed only if the number of votes cast to remove exceeds the number of votes cast not to remove the director.

(d) A director shall be removed by the shareholders only at a meeting called for the purpose of removing the director and the meeting notice shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.09. Removal of directors by judicial proceeding.

(a) The Superior Court may remove a director of the corporation from office in a proceeding commenced by or in the right of the corporation if the court finds that:

(1) The director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

(2) Considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interest of the corporation.

(b) A shareholder proceeding on behalf of the corporation under subsection (a) of this section shall comply with all of the requirements of part D of subchapter V of this chapter, except § 29-305.51(1).

(c) The Superior Court, in addition to removing the director, may bar the director from reelection for a period prescribed by the court.

(d) This section shall not limit the equitable powers of the Superior Court to order other relief.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.10. Vacancy on board.

(a) Unless the articles of incorporation provide otherwise, if a vacancy occurs on a board of directors, including a vacancy resulting from an increase in the number of directors:

(1) The shareholders may fill the vacancy;

(2) The board of directors may fill the vacancy; or

(3) If the directors remaining in office constitute less than a quorum of the

board, they may fill the vacancy by the affirmative vote of a majority of all the directors remaining in office.

(b) If the vacant office was held by a director elected by a voting group of shareholders, only the holders of shares of that voting group shall vote to fill the vacancy if it is filled by the shareholders and only the directors elected by that voting group shall fill the vacancy if it is filled by the directors.

(c) A vacancy that will occur at a specific later date, by reason of a resignation effective at a later date under § 29-306.07(b) or otherwise, may be filled before the vacancy occurs, but the new director shall not take office until the vacancy occurs.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.11. Compensation of directors.

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

MEETINGS AND ACTION OF THE BOARD.

§ 29-306.20. Meetings.

(a) The board of directors may hold regular or special meetings in or outside of the District.

(b) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means shall be deemed to be present in person at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.25. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.21. Action without meeting.

(a) Except to the extent that the articles of incorporation or bylaws require

that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent in a record describing the action to be taken and delivers it to the corporation.

(b) Action taken under this section shall be the act of the board of directors when one or more consents signed by all the directors are delivered to the corporation. The consent may specify the time at which the action taken thereunder is to be effective. A director's consent may be withdrawn by a revocation signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked consents in a record signed by all the directors.

(c) A consent signed under this section shall have the effect of action taken at a meeting of the board of directors and may be described as such in any document.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(18), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “consent in a record” for “consent” in (a); and substituted “consents in a record” for “written consents” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Discretion of committee.

Retirement plan committee was within its discretion in finding that railroad's board of directors properly approved amendments to railroad's voluntary early retirement plan (VERP), under District of Columbia law and plan's own bylaws, although some board members did not personally sign written consent

that was required to be unanimous, but, rather, delegated to others ministerial task of signing, where administrative record established that all board members intended to manifest their agreement to amendments in writing. *Hall v. AMTRAK*, 559 F.Supp.2d 38, 2008 U.S. Dist. LEXIS 46811 (2008).

§ 29-306.22. Notice of meeting.

(a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.

(b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least 2 days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.23. Waiver of notice.

(a) A director may waive any notice required by this chapter, the articles of incorporation, or bylaws before or after the date and time stated in the notice. Except as otherwise provided in subsection (b) of this section, the waiver shall be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(b) A director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting, or promptly upon arrival, objects to holding the meeting or transacting business at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.24. Quorum and voting.

(a) Unless the articles of incorporation or bylaws require a greater number or unless otherwise specifically provided in this chapter, a quorum of a board of directors shall consist of a majority of the:

- (1) Fixed number of directors if the corporation has a fixed board size; or
- (2) Number of directors prescribed or, if no number is prescribed, the number in office immediately before the meeting begins, if the corporation has a variable-range size board.

(b) The articles of incorporation or bylaws may authorize a quorum of a board of directors to consist of no less than $\frac{1}{3}$ of the fixed or prescribed number of directors determined under subsection (a) of this section.

(c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present shall be the act of the board of directors unless the articles of incorporation or bylaws require the vote of a greater number of directors.

(d) A director who is present at a meeting of the board of directors or a committee of the board of directors when corporate action is taken shall be deemed to have assented to the action taken unless:

- (1) The director objects at the beginning of the meeting, or promptly upon arrival, to holding it or transacting at the meeting;
- (2) The dissent or abstention from the action taken is entered in the minutes of the meeting; or
- (3) The director delivers written notice of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation immediately after adjournment of the meeting, but the right of dissent or abstention is not available to a director who votes in favor of the action taken.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.25 and § 29-306.53.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.25. Committees.

(a) Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create one or more committees and appoint one or more members of the board of directors to serve on any such committee.

(b) Unless this chapter otherwise provides, the creation of a committee and appointment of members to it shall be approved by the greater of:

(1) A majority of all the directors in office when the action is taken; or

(2) The number of directors required by the articles of incorporation or bylaws to take action under § 29-306.24.

(c) Sections 29-306.20 through 29-306.24 apply both to committees of the board and to their members.

(d) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the powers of the board of directors under § 29-306.01.

(e) A committee shall not:

(1) Authorize or approve distributions, except according to a formula or method, or within limits, prescribed by the board of directors;

(2) Approve or propose to shareholders action that this chapter requires be approved by shareholders;

(3) Fill vacancies on the board of directors or, subject to subsection (g) of this section, on any of its committees; or

(4) Adopt, amend, or repeal bylaws.

(f) The creation of, delegation of authority to, or action by a committee shall not alone constitute compliance by a director with the standards of conduct described in § 29-306.30.

(g) The board of directors may appoint one or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification. Unless the articles of incorporation or the bylaws or the resolution creating the committee provide otherwise, in the event of the absence or disqualification of a member of a committee, the member or members present at any meeting and not disqualified from voting, unanimously, may appoint another director to act in place of the absent or disqualified member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.

DIRECTORS.

§ 29-306.30. Standards of conduct for directors.

(a) Each member of the board of directors, when discharging the duties of a director, shall act:

(1) In good faith; and

(2) In a manner the director reasonably believes to be in the best interests of the corporation.

(b) The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

(c) In discharging board or committee duties, a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions; provided, that disclosure shall not be required to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(d) In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted may rely on:

(1) The performance by any of the persons specified in subsection (e)(1) or (3) of this section to which the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law; or

(2) Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (e) of this section.

(e) A director may rely, in accordance with subsection (d) or (e) of this section, on:

(1) One or more officers or employees of the corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(2) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence; or

(3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.25, § 29-306.32, and § 29-1303.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.31. Standards of liability for directors.

(a) A director shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

(1) None of the following, if interposed as a bar to the proceeding by the director, precludes liability:

(A) Any provision in the articles of incorporation authorized by § 29-302.02(b)(4);

(B) The protection afforded by § 29-306.71 for action taken in compliance with § 29-306.72 or § 29-306.73; or

(C) The protection afforded by § 29-306.80; and

(2) The challenged conduct consisted or was the result of:

(A) Action not in good faith;

(B) A decision:

(i) Which the director did not reasonably believe to be in the best interests of the corporation; or

(ii) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances;

(C) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

(i) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation; and

(ii) After a reasonable expectation to such effect has been established, the director has not established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation; or

(D) A sustained failure of the director to devote attention to ongoing oversight of the activities and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need therefore [therefor]; or

(E) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its shareholders that is actionable under applicable law.

(b) The party seeking to hold the director liable:

(1) For money damages, shall also have the burden of establishing that:

(A) Harm to the corporation or its shareholders has been suffered; and

(B) The harm suffered was proximately caused by the director's challenged conduct;

(2) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, shall also have whatever

persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

(3) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, shall also have whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(c) This section shall not:

(1) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the corporation under § 29-306.71(b)(3), alter the burden of proving the fact or lack of fairness otherwise applicable;

(2) Alters the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under § 29-306.32 or a transactional interest under § 29-306.71; or

(3) Affects any rights to which the corporation or a shareholder may be entitled under another law of the District or the United States.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(19), 59 DCR 13171.)

Section references. — This section is referenced in § 29-306.42.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (a)(2)(D).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-306.32. Directors’ liability for unlawful distributions.

(a) A director who votes for or assents to a distribution in excess of what may be authorized and made pursuant to § 29-304.60(a) or § 29-312.09(a) shall be personally liable to the corporation for the amount of the distribution that exceeds what could have been distributed without violating § 29-304.60(a) or § 29-312.09(a) if the party asserting liability establishes that when taking the action the director did not comply with § 29-306.30.

(b) A director held liable under subsection (a) of this section for an unlawful distribution shall be entitled to:

(1) Contribution from every other director who could be held liable under subsection (a) of this section for the unlawful distribution; and

(2) Recoupment from each shareholder of the pro-rata portion of the amount of the unlawful distribution the shareholder accepted, knowing the distribution was made in violation of § 29-304.60(a) or § 29-312.09(a).

(c) A proceeding to enforce:

(1) The liability of a director under subsection (a) of this section shall be barred unless it is commenced within 2 years after the date:

(A) On which the effect of the distribution was measured under § 29-304.60(e) or (g);

(B) As of which the violation of § 29-304.60(a) occurred as the consequence of disregard of a restriction in the articles of incorporation; or

(C) On which the distribution of assets to shareholders under § 29-312.09(a) was made; or

(2) Contribution or recoupment under subsection (b) of this section shall be barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection (a) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-302.02, § 29-306.31, and § 29-1303.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Burden of proof.
Dissolution of corporation.
Distribution of assets.
Incorporators and promoters.
Independence of board.

Burden of proof.

In order for a corporate creditor to impose personal liability on three trustees of corporation on any theory of transfer of funds in an attempt to hinder or defraud creditors, distribution of corporate assets to themselves in violation of statute, or breach of fiduciary obligation to account to creditors, it was necessary for contractor to prove assets in question ultimately were received by such trustees, or disposed of by them in contravention of contractor's rights as a creditor. D.C. Code 1951, § 29-218. *Askew v. Randolph Carney Co.*, 128 A.2d 788, 1957 D.C. App. LEXIS 192 (Cr.App. 1957).

Dissolution of corporation.

President, director and sole shareholder of professional corporation could be held liable, on insider preference theory, for corporation's breach of lease, to extent he authorized payments to himself, while corporation was insolvent and had outstanding debt to landlord, beyond value of his services in wrapping up corporation's affairs. D.C. Code 1981, § 29-342(a)(3). *Conner v. 1747 Pa. Ave. Assocs., L.P.*, 669 A.2d 693, 1995 D.C. App. LEXIS 260 (1995).

Distribution of assets.

Genuine issues of material fact existed as to whether majority shareholder's disclosures to minority shareholder of the extent he profited from various transactions with the corporation were sufficient to protect minority shareholder's interests, which precluded summary judgment on shareholder's derivative claims that majority shareholder, as a director, breached his fiduciary duty to the corporation and converted corporate assets for his personal gain.

Behradrezaee v. Dashtara, 910 A.2d 349, 2006 D.C. App. LEXIS 581 (2006).

Minority shareholder's allegations in his derivative shareholder's complaint were stated with sufficient particularity to create reasonable doubt that the board of directors acted independently on his demand to take action on claims that majority shareholder, as director, breached his fiduciary duty and converted corporate assets, and thus, rebutted the presumption under the business judgment rule that the board acted in the best interests of the corporation in not pursuing his claims, given that complaint alleged that director acted on both sides of leasing arrangements, called an emergency meeting to oust minority shareholder as director, and refused to distribute retained earnings. *Behradrezaee v. Dashtara*, 910 A.2d 349, 2006 D.C. App. LEXIS 581 (2006).

Incorporators and promoters.

President of "association" which filed its articles of incorporation that were first rejected but later accepted could be held personally liable on obligation entered into by "association" before certificate of incorporation was issued, and creditor was not estopped from denying existence of corporation because, after certificate of incorporation was issued, he accepted first installment payment on note executed by "association." D.C. Code 1961, §§ 29-917, 29-918(a)(2), 29-921a(f), 29-921c, 29-921d, 29-950. *Robertson v. Levy*, 197 A.2d 443, 1964 D.C. App. LEXIS 298 (App. 1964).

Independence of board.

Allegations of board domination in a shareholder's derivative action are sufficient to raise a reasonable doubt as to the propriety of the board's judgment in not pursuing the shareholders claims, as required to rebut the business judgment rule presumption that the board acted in the best interests of the corporation, when coupled with such facts as would demonstrate that through personal or other relationships the directors are beholden to the control-

ling person. *Behradrezaee v. Dashtara*, 910 A.2d 349, 2006 D.C. App. LEXIS 581 (2006).

PART D.

OFFICERS.

§ 29-306.40. **Officers.**

(a) A corporation shall have the officers described in its bylaws or appointed by the board of directors in accordance with the bylaws.

(b) The board of directors may elect individuals to fill one or more offices of the corporation. An officer may appoint one or more officers if authorized by the bylaws or the board of directors.

(c) The bylaws or the board of directors shall assign to one of the officers responsibility for preparing the minutes of the directors' and shareholders' meetings and for maintaining and authenticating the records of the corporation required to be kept under § 29-313.01(a) and (e).

(d) The same individual may simultaneously hold more than one office in a corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-301.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.41. **Functions of officers.**

Each officer has the authority to, and shall, perform:

(1) The functions set forth in the bylaws; or

(2) To the extent consistent with the bylaws, the functions prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the functions of other officers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Actions and proceedings.
In general.
Powers and duties.

Actions and proceedings.

Genuine issue of material fact as to whether president of corporation was authorized by corporation in its capacity as general partner to make change in beneficiary of life policy pur-

chased by limited partnership on president's life precluded summary judgment in interpleader action brought by life insurer. D.C. Code 1981, § 29-343(b). *Federal Kemper Life Assurance Co. v. Wolensky's L.P.* (In re Wolensky's Ltd. Partnership), 163 B.R. 615, 1993 Bankr. LEXIS 2053 (1993).

Authority of officers to act on behalf of corporation is an internal matter and former employee of corporation lacked standing to raise

statute that officers and agents of corporations had no authority to sue as provided in bylaws or determined by resolution of board of directors. D.C. Code 1981, § 29-343(b). *International Tours & Travel, Inc. v. Khalil*, 491 A.2d 1149, 1985 D.C. App. LEXIS 385 (1985).

In general.

Employee's discharge because he exercised his vote as member of board of directors of wholly-owned subsidiary of employer in manner contrary to interest expressed by parent company's chief executive officer, who was also his immediate supervisor, did not trigger exception to at-will employment doctrine for discharge in violation of public policy. *Atkins v. Industrial Telecommunications Ass'n*, 660 A.2d 885, 1995 D.C. App. LEXIS 114 (1995).

Powers and duties.

Under District of Columbia law, corporate officers may be liable for acts that corporate officer commits, participates in, or inspires in name of corporation. *Cooper v. First Gov't*

Mortg. & Investors Corp., 206 F.Supp.2d 33, 2002 U.S. Dist. LEXIS 12219 (2002).

Under District of Columbia law, officer of corporation is only authorized to act as specified in corporation's bylaws or in subsequent resolution by board of directors that is not inconsistent with bylaws. D.C. Code 1981, § 29-343(b). *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 615, 1993 Bankr. LEXIS 2053 (1993).

Testimony of sales and services specialist for lessor of automated computer airline reservation and ticketing system, that managing director of travel company incorporated in District of Columbia specifically told her he was acting on behalf of the company in signing the lease for the lessee, and two copies of lease indicating that managing director was acting on behalf of company, established that managing director was the company's agent and that he disclosed that fact to the sales and services specialist. *Affordable Elegance Travel, Inc. v. Worldspan, L.P.*, 774 A.2d 320, 2001 D.C. App. LEXIS 132 (2001).

§ 29-306.42. Standards of conduct for officers.

- (a) An officer, when performing in such capacity, shall have the duty to act:
 - (1) In good faith;
 - (2) With the care that a person in a like position would reasonably exercise under similar circumstances; and
 - (3) In a manner the officer reasonably believes to be in the best interests of the corporation.
- (b) The duty of an officer shall include the obligation to inform the:
 - (1) Superior officer to whom, or the board of directors or the committee thereof to which, the officer reports of information about the affairs of the corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to the superior officer, board or committee; and
 - (2) Officer's superior officer, another appropriate person within the corporation, or the board of directors, or a committee thereof, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.
- (c) In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted may rely on:
 - (1) The performance of properly delegated responsibilities by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in performing the responsibilities delegated; or
 - (2) Information, opinions, reports, or statements, including financial statements and other financial data, prepared or presented by one or more employees of the corporation whom the officer reasonably believes to be reliable and competent in the matters presented, or by legal counsel, public

accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters:

- (A) Within the particular person's professional or expert competence; or
- (B) As to which the particular person merits confidence.

(d) An officer shall not be liable to the corporation or its shareholders for any decision to take or not to take action, or any failure to take any action, as an officer, if the duties of the office are performed in compliance with this section. Whether an officer who does not comply with this section has liability depends in such instance on applicable law, including those principles of § 29-306.31 that are relevant.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1303.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.43. Resignation and removal of officers.

(a) An officer may resign at any time by delivering notice to the corporation. A resignation shall be effective when the notice is delivered, unless the notice specifies a later effective time. If a resignation is made effective at a later time and the board or the appointing officer accepts the future effective time, the board or the appointing officer may fill the pending vacancy before the effective time if the board or the appointing officer provides that the successor shall not take office until the effective time.

(b) An officer may be removed at any time with or without cause by:

(1) The board of directors;

(2) The officer who appointed such officer, unless the bylaws or the board of directors provide otherwise; or

(3) Any other officer if authorized by the bylaws or the board of directors.

(c) For the purposes of this section, the term "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Close corporations.

The stockholders of a corporation in which the general public has no interest may depose

its officers without notice and trial. *Adamantine Brick Co. v. Woodruff*, 11 D.C. 318 (D.C.Supp. 1880).

§ 29-306.44. Contract rights of officers.

(a) The appointment of an officer shall not itself create contract rights.

(b) An officer's removal shall not affect the officer's contract rights, if any,

with the corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART E.

INDEMNIFICATION AND ADVANCE FOR EXPENSES.

§ 29-306.50. Definitions.

For the purposes of this part, the term:

(1) "Corporation" includes any domestic or foreign predecessor entity of a corporation in a merger.

(2) "Director" or "officer" means an individual who is or was a director or officer, respectively, of a corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, manager, partner, trustee, employee, or agent of another entity or employee benefit plan. A director or officer shall be considered to be serving an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. The term "director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(4)(A) "Official capacity" means:

(i) When used with respect to a director, the office of director in a corporation; and

(ii) When used with respect to an officer, as contemplated in § 29-306.56, the office in a corporation held by the officer.

(B) The term "official capacity" shall not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

(5) "Party" means an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

(6) "Proceeding" means any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, arbitral, or investigative and whether formal or informal.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-302.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.51. Permissible indemnification.

(a) Except as otherwise provided in this section, a corporation may indemnify an individual who is a party to a proceeding because the individual is a director against liability incurred in the proceeding if the director:

(1)(A) Conducted himself or herself in good faith;

(B) Reasonably believed:

(i) In the case of conduct in an official capacity, that his or her conduct was in the best interests of the corporation; and

(ii) In all other cases, that the director's conduct was at least not opposed to the best interests of the corporation; and

(C) In the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; or

(2) Engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by § 29-302.02(b)(5).

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in, and the beneficiaries of, the plan shall be conduct that satisfies subsection (a)(1)(B)(ii) of this section.

(c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall, of itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(d) Unless ordered by the Superior Court under § 29-306.54(a)(3), a corporation may not indemnify a director in connection with a proceeding:

(1) By or in the right of the corporation, except for expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection (a) of this section; or

(2) With respect to conduct for which the director was adjudged liable on the basis of receiving a financial benefit to which the director was not entitled, whether or not involving action in the director's official capacity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.53, § 29-306.54, § 29-306.55, and § 29-306.58.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.52. Mandatory indemnification.

A corporation shall indemnify a director who was wholly successful, on the merits or otherwise, in the defense of any proceeding to which the director was a party because he or she was a director of the corporation against expenses incurred by the director in connection with the proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.53, § 29-306.54, and § 29-306.56.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.53. Advance for expenses.

(a) A corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse expenses incurred in connection with the proceeding by an individual who is a party to the proceeding because that individual is a member of the board of directors if the director delivers to the corporation:

(1) A signed affirmation in a record of the director's good faith belief that the relevant standard of conduct described in § 29-306.51 has been met by the director or that the proceeding involves conduct for which liability has been eliminated under a provision of the articles of incorporation as authorized by § 29-302.02(b)(4); and

(2) An undertaking in a record of the director to repay any funds advanced if the director is not entitled to mandatory indemnification under § 29-306.52 and it is ultimately determined under § 29-306.54 or § 29-306.55 that the director has not met the relevant standard of conduct described in § 29-306.51.

(b) The undertaking required by subsection (a)(2) of this section shall be an unlimited general obligation of the director, but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) The authorization under this section shall be made:

(1) By the board of directors:

(A) If there are 2 or more qualified directors, by a majority vote of all the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of 2 or more qualified directors appointed by such a vote; or

(B) If there are fewer than 2 qualified directors, by the vote necessary for action by the board in accordance with § 29-306.24(c), in which authorization directors who are not qualified directors may participate; or

(2) By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the authorization.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(20), 59 DCR 13171.)

Section references. — This section is referenced in § 29-301.21, § 29-306.54, and § 29-306.58.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "signed affirmation in a record" for "written affirmation" in (a)(1); and substituted "An undertaking in a record" for "A written undertaking" in (a)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-306.54. Court-ordered indemnification and advance for expenses.

(a) A director who is a party to a proceeding because he or she is a director may apply for indemnification or an advance for expenses to the Superior Court. After receipt of an application and after giving any notice it considers necessary, the court shall:

(1) Order indemnification if the court determines that the director is entitled to mandatory indemnification under § 29-306.52;

(2) Order indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by § 29-306.58(a); or

(3) Order indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to:

(A) Indemnify the director; or

(B) Advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in § 29-306.51(a), failed to comply with § 29-306.53, or was adjudged liable in a proceeding referred to in § 29-306.51(d)(1) or (2) of this section, but, if the director was adjudged so liable, indemnification shall be limited to expenses incurred in connection with the proceeding.

(b) If the Superior Court determines that the director is entitled to indemnification under subsection (a)(1) of this section or to indemnification or advance for expenses under subsection (a)(2) of this section, it shall also order the corporation to pay the director's expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection (a)(3) of this section, it may also order the corporation to pay the director's expenses to obtain court-ordered indemnification or advance for expenses.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.51, § 29-306.53, and § 29-306.56.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.55. Determination and authorization of indemnification.

(a) A corporation shall not indemnify a director under § 29-306.51 unless authorized for a specific proceeding after a determination has been made that indemnification is permissible because the director has met the relevant standard of conduct set forth in § 29-306.51.

(b) The determination under subsection (a) of this section shall be made:

(1) If there are 2 or more qualified directors, by the board of directors by a majority vote of all the qualified directors, a majority of whom shall for such purpose constitute a quorum, or by a majority of the members of a committee of 2 or more qualified directors appointed by such a vote;

(2) By special legal counsel:

(A) Selected in the manner prescribed in paragraph (1) of this subsection; or

(B) If there are fewer than 2 qualified directors, selected by the board of directors, in which selection directors who are not qualified directors may participate; or

(3) By the shareholders, but shares owned by or voted under the control of a director who at the time is not a qualified director shall not be voted on the determination.

(c) Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible; provided, that if there are fewer than 2 qualified directors, or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled to select special legal counsel under subsection (b)(2)(B) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-301.21, § 29-306.53, and § 29-306.58.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.56. Indemnification of officers.

(a) A corporation may indemnify and advance expenses under this part to an officer of the corporation who is a party to a proceeding because he or she is an officer of the corporation:

(1) To the same extent as a director; and

(2) If he or she is an officer but not a director, to such further extent as may be provided by the articles of incorporation, the bylaws, a resolution of the board of directors, or contract, except for liability:

(A) In connection with a proceeding by or in the right of the corporation other than for expenses incurred in connection with the proceeding; or

(B) Arising out of conduct that constitutes:

(i) Receipt by the officer of a financial benefit to which the officer is not entitled;

(ii) An intentional infliction of harm on the corporation or the shareholders; or

(iii) An intentional violation of criminal law.

(b) Subsection (a)(2) of this section shall apply to an officer who is also a director if the basis on which the officer is made a party to the proceeding is an act or omission solely as an officer.

(c) An officer of a corporation who is not a director shall be entitled to mandatory indemnification under § 29-306.52, and may apply to the Superior Court under § 29-306.54 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those provisions.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.57. Insurance.

A corporation may purchase insurance on behalf of an individual who is a director or officer of the corporation, or who, while a director or officer of the corporation, serves at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the corporation would have power to indemnify or advance expenses to the individual against the same liability under this part.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.58. Variation by corporate action; application of part.

(a) A corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or shareholders, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification in accordance with § 29-306.51 or advance funds to pay for or reimburse expenses in accordance with § 29-306.53. Any such obligatory provision shall satisfy the requirements for authorization referred to in § 29-306.53(c) and in § 29-306.55(c). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law obligates the corporation to advance funds to pay for or reimburse expenses in accordance with § 29-306.53 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(b) Any provision pursuant to subsection (a) of this section shall not obligate the corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the articles of incorporation, bylaws, or a resolution of the board of directors or shareholders of a predecessor of the corporation in a merger or in a contract to which the predecessor shall be a party, existing at the time the merger takes effect, shall be governed by § 29-309.07(a)(4).

(c) A corporation may, by a provision in its articles of incorporation, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

(d) This part shall not limit a corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with appearing as a witness in a proceeding at a time when he or she is not a party.

(e) This part shall not limit a corporation's power to indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee or agent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.54. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-306.59. Exclusivity of part.

A corporation may provide indemnification or advance expenses to a director or an officer only as permitted by this part.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART F.

DIRECTORS' CONFLICTING INTEREST TRANSACTIONS.

§ 29-306.70. Definitions.

For the purposes of this part, the term:

(1) "Control", including the term "controlled by", means:

(A) Having the power, directly or indirectly, to elect or remove a majority of the members of the board of directors or other governing body of an entity, whether through the ownership of voting shares or interests, by contract, or otherwise; or

(B) Being subject to a majority of the risk of loss from the entity's activities or entitled to receive a majority of the entity's residual returns.

(2) "Director's conflicting interest transaction" means a transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation:

(A) To which, at the relevant time, the director is a party;

(B) Respecting which, at the relevant time, the director had knowledge and a material financial interest known to the director; or

(C) Respecting which, at the relevant time, the director knew that a related person was a party or had a material financial interest.

(3) "Fair to the corporation" means, for the purposes of § 29-306.71(b)(3), that the transaction as a whole was beneficial to the corporation, taking into appropriate account whether it was:

(A) Fair in terms of the director's dealings with the corporation; and

(B) Comparable to what might have been obtainable in an arm's length transaction, given the consideration paid or received by the corporation.

(4) "Material financial interest" means a financial interest in a transac-

tion that would reasonably be expected to impair the objectivity of the director's judgment when participating in action on the authorization of the transaction.

(5) "Related person" means:

- (A) The director's spouse;
- (B) A child, stepchild, grandchild, parent, step parent, grandparent, sibling, step sibling, half sibling, aunt, uncle, niece or nephew, or spouse of any thereof, of the director or of the director's spouse;
- (C) An individual living in the same home as the director;
- (D) An entity, other than the corporation or an entity controlled by the corporation, controlled by the director or any person specified above in this paragraph;
- (E) A domestic or foreign:
 - (i) Business or nonprofit corporation, other than the corporation or an entity controlled by the corporation, of which the director is a governor;
 - (ii) Unincorporated entity of which the director is a governor or a member of the governing body; or
 - (iii) Individual, trust, or estate for whom or of which the director is a trustee, guardian, personal representative, or like fiduciary; or
- (F) A person that is, or an entity that is controlled by, an employer of the director.

(6) "Relevant time" means:

- (A) The time at which directors' action respecting the transaction is taken in compliance with § 29-306.72; or
- (B) If the transaction is not brought before the board of directors of the corporation, or its committee, for action under § 29-306.72, at the time the corporation, or an entity controlled by the corporation, becomes legally obligated to consummate the transaction.

(7) "Required disclosure" means disclosure of:

- (A) The existence and nature of the director's conflicting interest; and
- (B) All facts known to the director respecting the subject matter of the transaction that a director free of such conflicting interest would reasonably believe to be material in deciding whether to proceed with the transaction.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.72, § 29-306.73, and § 29-306.80.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.71. Judicial action.

(a) A transaction effected or proposed to be effected by the corporation, or by an entity controlled by the corporation, shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if it is not a director's conflicting interest transaction.

(b) A director's conflicting interest transaction shall not be the subject of

equitable relief, or give rise to an award of damages or other sanctions against a director of the corporation, in a proceeding by a shareholder or by or in the right of the corporation, on the ground that the director has an interest respecting the transaction, if:

(1) Directors' action respecting the transaction was taken in compliance with § 29-306.72 at any time;

(2) Shareholders' action respecting the transaction was taken in compliance with § 29-306.73 at any time; or

(3) The transaction, judged according to the circumstances at the relevant time, is established to have been fair to the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.31, § 29-306.70, § 29-306.72, and § 29-306.73.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.72. Directors' action.

(a) Except as otherwise provided in subsection (b) of this section, directors' action respecting a director's conflicting interest transaction shall be effective for the purposes of § 29-306.71(b)(1) if the transaction has been authorized by the affirmative vote of a majority, but no fewer than 2, of the qualified directors who voted on the transaction, after required disclosure by the conflicted director of information not already known by such qualified directors, or after modified disclosure in compliance with subsection (b) of this section; provided, that:

(1) The qualified directors have deliberated and voted outside the presence of and without the participation by any other director; and

(2)(A) If the action has been taken by a committee, all members of the committee were qualified directors; and

(B)(i) The committee was composed of all the qualified directors on the board of directors; or

(ii) The members of the committee were appointed by the affirmative vote of a majority of the qualified directors on the board.

(b) Notwithstanding subsection (a) of this section, when a transaction is a director's conflicting interest transaction only because a related person described in § 29-306.70(5)(E) or (F) is a party to or has a material financial interest in the transaction, the conflicted director shall not be obligated to make required disclosure to the extent that the director reasonably believes that doing so would violate a duty imposed under law, a legally enforceable obligation of confidentiality, or a professional ethics rule; provided, that the conflicted director discloses to the qualified directors voting on the transaction:

(1) All information required to be disclosed that is not so violative;

(2) The existence and nature of the director's conflicting interest; and

(3) The nature of the conflicted director's duty not to disclose the confidential information.

(c) A majority, but no fewer than 2, of all the qualified directors on the board

of directors, or on the committee, constitutes a quorum for the purposes of action that complies with this section.

(d) If directors' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation, the bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the board of directors or a committee, in which action directors who are not qualified directors may participate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-301.21, § 29-306.31, § 29-306.70, § 29-306.71, § 29-306.80, § 29-311.01, and § 29-311.50.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-306.73. Shareholders' action.

(a) Shareholders' action respecting a director's conflicting interest transaction shall be effective for the purposes of § 29-306.71(b)(2) if a majority of the votes cast by the holders of all qualified shares are in favor of the transaction after:

(1) Notice to shareholders describing the action to be taken respecting the transaction;

(2) Provision to the corporation of the information referred to in subsection (b) of this section; and

(3) Communication to the shareholders entitled to vote on the transaction of the information that is the subject of required disclosure, to the extent the information is not known by them.

(b) A director who has a conflicting interest respecting the transaction shall, before the shareholders' vote, inform the secretary or other officer or agent of the corporation authorized to tabulate votes, in writing, of the number of shares that the director knows are not qualified shares under subsection (c) of this section, and the identity of the holders of those shares.

(c) For the purposes of this section, the term:

(1) "Holder" means, and "held by" refers to, shares held by both a record shareholder and a beneficial shareholder.

(2) "Qualified shares" means all shares entitled to be voted with respect to the transaction except for shares that the secretary or other officer or agent of the corporation authorized to tabulate votes either knows, or under subsection (b) of this section is notified, are held by:

(A) A director who has a conflicting interest respecting the transaction; or

(B) A related person of the director, excluding a person described in § 29-306.70(5)(F).

(d) A majority of the votes entitled to be cast by the holders of all qualified shares shall constitute a quorum for purposes of compliance with this section. Subject to subsection (e) of this section, shareholders' action that otherwise complies with this section shall not be affected by the presence of holders, or by the voting, of shares that are not qualified shares.

(e) If a shareholders' vote does not comply with subsection (a) of this section solely because of a director's failure to comply with subsection (b) of this section, and if the director establishes that the failure was not intended to influence and did not in fact determine the outcome of the vote, the Superior Court may take such action respecting the transaction and the director, and may give such effect, if any, to the shareholders' vote, as the court considers appropriate in the circumstances.

(f) If shareholders' action under this section does not satisfy a quorum or voting requirement applicable to the authorization of the transaction by reason of the articles of incorporation, the bylaws, or a provision of law, independent action to satisfy those authorization requirements shall be taken by the shareholders, in which action shares that are not qualified shares may participate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.31, § 29-306.71, § 29-306.80, and § 29-311.50.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART G.

BUSINESS OPPORTUNITIES.

§ 29-306.80. Business opportunities.

(a) A director's taking advantage, directly or indirectly, of a business opportunity shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if, before becoming legally obligated respecting the opportunity, the director brings it, to the attention of the corporation and:

(1) Action by qualified directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in § 29-306.72, as if the decision being made concerned a director's conflicting interest transaction; or

(2) Shareholders' action disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in § 29-306.73, as if the decision being made concerned a director's conflicting interest transaction; provided, that rather than making "required disclosure" as defined in § 29-306.70, in each case the director shall have made prior disclosure to those acting on behalf of the corporation of all material facts concerning the business opportunity that are then known to the director.

(b) In any proceeding seeking equitable relief or other remedies based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection (a) of this section before taking advantage of the opportunity shall not create an inference that the opportunity should have been first presented to the

corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-301.21 and § 29-306.31. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

Subchapter VII. Domestication.

§ 29-307.01. Domestication.

(a) A foreign business corporation may become a domestic business corporation only if the domestication is permitted by the organic law of the foreign corporation.

(b) A domestic business corporation may become a foreign business corporation if the domestication is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved by the adoption by the corporation of a plan of domestication in the manner provided in this subchapter.

(c) The plan of domestication shall include:

(1) A statement of the jurisdiction in which the corporation is to be domesticated;

(2) The terms and conditions of the domestication;

(3) The manner and basis of reclassifying the shares of the corporation following its domestication into shares or other securities, obligations, rights to acquire shares or other securities, money, other property, or any combination of the foregoing; and

(4) Any desired amendments to the articles of incorporation of the corporation following its domestication.

(d) The plan of domestication may also include a provision that the plan may be amended prior to filing the document required by the laws of the District or the other jurisdiction to consummate the domestication; provided, that subsequent to approval of the plan by the shareholders, the plan shall not be amended to change:

(1) The amount or kind of shares or other securities, obligations, rights to acquire shares or other securities, money, or other property to be received by the shareholders under the plan;

(2) The articles of incorporation as they will be in effect immediately following the domestication, except for changes permitted by § 29-308.05 or by comparable provisions of the laws of the other jurisdiction; or

(3) Any of the other terms or conditions of the plan if the change would adversely affect any of the shareholders in any material respect.

(e) Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with § 29-301.04.

(f) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued,

incurred, or signed by a domestic business corporation before the effective date of this chapter contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision shall be amended subsequent to that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(21), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “money” for “cash” in (c)(3) and (d)(1); and substituted “signed” for “executed” in (f).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-307.02. Action on a plan of domestication.

(a) In the case of a domestication of a domestic business corporation in a foreign jurisdiction, the following rules apply:

(1) The plan of domestication shall be adopted by the board of directors.

(2) After adopting the plan of domestication, the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the plan of domestication to the shareholders on any basis.

(4) If the approval of the shareholders is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan of domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy of the articles of incorporation as they will be in effect immediately after the domestication.

(5) Unless the articles of incorporation, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, approval of the plan of domestication requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the domestication by that voting group exists.

(6) Separate voting by voting groups shall be required by each class or series of shares that:

(A) Are to be reclassified under the plan of domestication into other securities, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing;

(B) Would be entitled to vote as a separate group on a provision of the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-308.04; or

(C) Is entitled under the articles of incorporation to vote as a voting group to approve an amendment of the articles.

(7) If any provision of the articles of incorporation, bylaws, or an agreement to which any of the directors or shareholders are parties, adopted, or entered into before the effective date of this chapter, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, the provision shall apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-307.03. Articles of domestication.

(a) After the domestication of a foreign business corporation has been authorized as required by the laws of the foreign jurisdiction, articles of domestication must be signed by any officer or other duly authorized representative. The articles shall set forth:

(1) The name of the corporation immediately before the filing of the articles of domestication and, if that name is unavailable for use in the District or the corporation desires to change its name in connection with the domestication, a name that satisfies the requirements of § 29-103.02(a);

(2) The jurisdiction of incorporation of the corporation immediately before the filing of the articles of domestication and the date the corporation was incorporated in that jurisdiction; and

(3) A statement that the domestication of the corporation in the District was duly authorized as required by the laws of the jurisdiction in which the corporation was incorporated immediately before its domestication in the District.

(b)(1) The articles of domestication shall contain:

(A) All of the provisions that § 29-302.02(a) requires to be set forth in articles of incorporation and any other desired provisions that § 29-302.02(b) permits to be included in articles of incorporation; or

(B) Have attached articles of incorporation.

(2) For the purposes of paragraph (1) of this subsection, provisions that would not be required to be included in restated articles of incorporation may be omitted.

(c) The articles of domestication shall be delivered to the Mayor for filing and take effect at the effective time provided in § 29-102.03.

(d) If the foreign corporation is authorized to do business in the District

under subchapter V of Chapter 1 of this title, its certificate of registration shall be canceled automatically on the effective date of its domestication.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-307.04. Surrender of charter upon domestication.

(a) Whenever a domestic business corporation has adopted and approved, in the manner required by this subchapter, a plan of domestication providing for the corporation to be domesticated in a foreign jurisdiction, articles of charter surrender shall be signed on behalf of the corporation by any officer or other duly authorized representative. The articles of charter surrender shall set forth:

- (1) The name of the corporation;
- (2) A statement that the articles of charter surrender are being filed in connection with the domestication of the corporation in a foreign jurisdiction;
- (3) A statement that the domestication was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation; and
- (4) The corporation's new jurisdiction of incorporation.

(b) The articles of charter surrender shall be delivered by the corporation to the Mayor for filing. The articles of charter surrender shall be effective on the effective time provided in § 29-102.03.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-307.05. Effect of domestication.

(a) When a domestication becomes effective:

- (1) The title to all real and personal property, both tangible and intangible, of the corporation shall remain in the corporation without reversion or impairment;
- (2) The liabilities of the corporation shall remain the liabilities of the corporation;
- (3) An action or proceeding pending against the corporation shall continue against the corporation as if the domestication had not occurred;
- (4) The articles of domestication, or the articles of incorporation attached to the articles of domestication, shall constitute the articles of incorporation of a foreign corporation domesticating in the District;
- (5) The shares of the corporation shall be reclassified into shares, other securities, obligations, rights to acquire shares or other securities, or into cash or other property in accordance with the terms of the domestication, and the

shareholders shall be entitled only to the rights provided by those terms and to any appraisal rights they may have under the organic law of the domesticating corporation; and

(6) The corporation shall be deemed to:

(A) Be incorporated under and subject to the organic law of the domesticated corporation for all purposes;

(B) Be the same corporation without interruption as the domesticating corporation; and

(C) Have been incorporated on the date the domesticating corporation was originally incorporated.

(b) When a domestication of a domestic business corporation in a foreign jurisdiction becomes effective:

(1) In a proceeding to enforce the rights of shareholders that exercise appraisal rights in connection with the domestication, service of process may be made on the foreign business corporation in accordance with § 29-104.12; and

(2) The foreign business corporation shall be deemed to agree that it will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XI of this chapter.

(c) The owner liability of a shareholder in a foreign corporation that is domesticated in the District shall be as follows:

(1) The domestication shall not discharge any owner liability under the laws of the foreign jurisdiction to the extent any such owner liability arose before the effective time of the articles of domestication.

(2) The shareholder shall not have owner liability under the laws of the foreign jurisdiction for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of domestication.

(3) The laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(4) The shareholder shall have whatever rights of contribution from other shareholders are provided by the laws of the foreign jurisdiction with respect to any owner liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(d) A shareholder that becomes subject to owner liability for some or all of the debts, obligations, or liabilities of the corporation as a result of its domestication in the District shall have owner liability only for those debts, obligations, or liabilities of the corporation that arise after the effective time of the articles of domestication.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-307.06. Abandonment of a domestication.

(a) Unless otherwise provided in a plan of domestication of a domestic

business corporation, after the plan has been adopted and approved as required by this subchapter, and at any time before the domestication has become effective, it may be abandoned by the board of directors without action by the shareholders.

(b) If a domestication is abandoned under subsection (a) of this section after articles of charter surrender have been delivered to the Mayor for filing but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the domestication. The statement shall be effective upon filing and the domestication shall be deemed abandoned and shall not become effective.

(c) If the domestication of a foreign business corporation in the District is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been delivered to the Mayor for filing, a statement that the domestication has been abandoned, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing. The statement shall be effective upon filing and the domestication shall be deemed abandoned and shall not become effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(22), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (b) and (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VIII. Amendment of Articles of Incorporation and Bylaws.

PART A.

AMENDMENT OF ARTICLES OF INCORPORATION.

§ 29-308.01. Authority to amend.

(a) A corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles of incorporation as of the effective date of the amendment or to delete a provision that is not required to be contained in the articles of incorporation.

(b) A shareholder of the corporation shall not have a vested property right resulting from any provision in the articles of incorporation, including provisions relating to management, control, capital structure, dividend entitlement, or purpose or duration of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1301.05. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-308.02. Amendment before issuance of shares.

If a corporation has not yet issued shares, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the corporation's articles of incorporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Acceptance of subscriptions.

Where payment of subscription for all corporate stock was made to the promoter but the corporate minute book showed no action by board of directors with respect to subscription, original incorporators could amend articles of incorporation to increase capital stock and amendment was not governed by provision for

amendment of articles of incorporation by board of directors after acceptance of subscription. D.C. Code §§ 29-921g, 29-921h. *Sankin v. 5410 Connecticut Ave. Corp.*, 281 F. Supp. 524, 1968 U.S. Dist. LEXIS 11897 (D.D.C.1968), affirmed by 410 F.2d 1060, 133 U.S. App. D.C. 361, 1969 U.S. App. LEXIS 12975 (1969).

§ 29-308.03. Amendment by board of directors and shareholders.

If a corporation has issued shares, an amendment to the articles of incorporation shall be adopted in the following manner:

- (1) The proposed amendment shall be adopted by the board of directors.
- (2) Except as otherwise provided in §§ 29-308.05, 29-308.07, and 29-308.08, after adopting the proposed amendment, the board of directors shall submit the amendment to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.
- (3) The board of directors may condition its submission of the amendment to the shareholders on any basis.
- (4) If the amendment is required to be approved by the shareholders, and the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the amendment is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the amendment and shall contain or be accompanied by a copy of the amendment.
- (5) Unless the articles of incorporation, or the board of directors acting pursuant to paragraph (3) of this subsection requires a greater vote or a

greater number of shares to be present, approval of the amendment shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the amendment exists, and, if any class or series of shares is entitled to vote as a separate group on the amendment, except as otherwise provided in § 29-308.04(c), the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the amendment by that voting group exists.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.07. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-308.04. Voting on amendments by voting groups.

(a) If a corporation has more than one class of shares outstanding, the holders of the outstanding shares of a class shall be entitled to vote as a separate voting group, if shareholder voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:

(1) Effect an exchange or reclassification of all or part of the shares of the class into shares of another class;

(2) Effect an exchange or reclassification, or create the right of exchange, of all or part of the shares of another class into shares of the class;

(3) Change the rights, preferences, or limitations of all or part of the shares of the class;

(4) Change the shares of all or part of the class into a different number of shares of the same class;

(5) Create a new class of shares having rights or preferences with respect to distributions or to dissolution that are prior or superior to the shares of the class;

(6) Increase the rights, preferences, or number of authorized shares of any class that, after giving effect to the amendment, have rights or preferences with respect to distributions or to dissolution that are prior or superior to the shares of the class;

(7) Limit or deny an existing preemptive right of all or part of the shares of the class; or

(8) Cancel or otherwise affect rights to distributions that have accumulated but not yet been authorized on all or part of the shares of the class.

(b) If a proposed amendment would affect a series of a class of shares in one or more of the ways described in subsection (a) of this section, the holders of shares of that series shall be entitled to vote as a separate voting group on the proposed amendment.

(c) If a proposed amendment that entitles the holders of 2 or more classes or series of shares to vote as separate voting groups under this section would affect those 2 or more classes or series in the same or a substantially similar way, the holders of shares of all the classes or series so affected shall vote

together as a single voting group on the proposed amendment, unless otherwise provided in the articles of incorporation or required by the board of directors.

(d) A class or series of shares shall be entitled to the voting rights granted by this section although the articles of incorporation provide that the shares are nonvoting shares.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-307.02, § 29-308.03, and § 29-309.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-308.05. Amendment by board of directors.

Unless the articles of incorporation provide otherwise, a corporation's board of directors may adopt amendments to the corporation's articles of incorporation without shareholder approval:

- (1) To extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;
- (2) To delete the names and addresses of the initial directors;
- (3) To change the information required by § 29-104.04
- (4) If the corporation has only one class of shares outstanding:
 - (A) To change each issued and unissued authorized share of the class into a greater number of whole shares of that class; or
 - (B) To increase the number of authorized shares of the class to the extent necessary to permit the issuance of shares as a share dividend;
- (5) To change the corporate name by substituting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name, or by adding, deleting, or changing a geographical attribution for the name;
- (6) To reflect a reduction in authorized shares, as a result of the operation of § 29-304.41(b), when the corporation has acquired its own shares and the articles of incorporation prohibit the reissue of the acquired shares;
- (7) To delete a class of shares from the articles of incorporation, as a result of the operation of § 29-304.41(b), if there are no remaining shares of the class because the corporation has acquired all shares of the class and the articles of incorporation prohibit the reissue of the acquired shares; or
- (8) To make any change expressly permitted by § 29-304.02(a) or (b) to be made without shareholder approval.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-307.01, § 29-308.03, § 29-309.02, and § 29-309.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-308.06. Articles of amendment.

After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of

incorporation, the corporation shall deliver to the Mayor for filing articles of amendment, which shall set forth:

(1) The name of the corporation;

(2) The text of each amendment adopted or the information required by § 29-301.04;

(3) If an amendment provides for an exchange, reclassification, or cancellation of issued shares, provisions for implementing the amendment if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with § 29-301.04;

(4) The date of each amendment's adoption; and

(5) If an amendment:

(A) Was adopted by the incorporators or board of directors without shareholder approval, a statement that the amendment was duly approved by the incorporators or by the board of directors, as the case may be, and that shareholder approval was not required;

(B) Required approval by the shareholders, a statement that the amendment was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation; or

(C) Is being filed pursuant to § 29-301.04, a statement to that effect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.07. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-308.07. Restated articles of incorporation.

(a) A corporation's board of directors may restate its articles of incorporation at any time, with or without shareholder approval, to consolidate all amendments into a single document.

(b) If the restated articles include one or more new amendments that require shareholder approval, the amendments shall be adopted and approved as provided in § 29-308.03.

(c) A corporation that restates its articles of incorporation shall deliver to the Mayor for filing articles of restatement setting forth the name of the corporation and the text of the restated articles of incorporation, together with a certificate which states that the restated articles consolidate all amendments into a single document and, if a new amendment is included in the restated articles, which also includes the statements required under § 29-308.06.

(d) Duly adopted restated articles of incorporation supersede the original articles of incorporation and all amendments thereto.

(e) The Mayor may certify restated articles of incorporation as the articles of incorporation currently in effect, without including the certificate information required by subsection (c).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-308.08. Amendment pursuant to reorganization.

(a) A corporation's articles of incorporation may be amended without action by the board of directors or shareholders to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of a law of the United States.

(b) The individual designated by the Superior Court shall deliver to the Mayor for filing articles of amendment setting forth:

- (1) The name of the corporation;
- (2) The text of each amendment approved by the court;
- (3) The date of the court's order or decree approving the articles of amendment;
- (4) The title of the reorganization proceeding in which the order or decree was entered; and
- (5) A statement that the court had jurisdiction of the proceeding under federal law.

(c) This section shall not apply after entry of a final decree in the reorganization proceeding even though the Superior Court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-308.09. Effect of amendment.

An amendment to the articles of incorporation shall not affect a cause of action existing against or in favor of the corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than shareholders of the corporation. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

AMENDMENT OF BYLAWS.

§ 29-308.20. Amendment by board of directors or shareholders.

(a) A corporation's shareholders may amend or repeal the corporation's bylaws.

(b) A corporation's board of directors may amend or repeal the corporation's bylaws, unless:

(1) The articles of incorporation, § 29-308.21 or, if applicable, § 29-308.22 reserve that power exclusively to the shareholders in whole or part; or

(2) The shareholders in amending, repealing, or adopting a bylaw expressly provide that the board of directors shall not amend, repeal, or reinstate that bylaw.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-308.21. Bylaw increasing quorum or voting requirement for directors.

(a) A bylaw that increases a quorum or voting requirement for the board of directors may be amended or repealed:

(1) If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides;

(2) If adopted by the board of directors, either by the shareholders or by the board of directors.

(b) A bylaw adopted or amended by the shareholders that increases a quorum or voting requirement for the board of directors may provide that it can be amended or repealed only by a specified vote of either the shareholders or the board of directors.

(c) Action by the board of directors under subsection (a) of this section to amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-308.20. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-308.22. Bylaw provisions relating to the election of directors.

(a) Unless the articles of incorporation specifically prohibit the adoption of a bylaw pursuant to this section, alter the vote specified in § 29-305.28(a), or provide for cumulative voting, a public corporation may elect in its bylaws to be governed in the election of directors as follows:

(1) Each vote entitled to be cast may be voted for or against up to that number of candidates that is equal to the number of directors to be elected, or a shareholder may indicate an abstention, but without cumulating the votes.

(2)(A) To be elected, a nominee shall have received a plurality of the votes cast by holders of shares entitled to vote in the election at a meeting at which a quorum is present; provided, that a nominee who is elected but receives more votes against than for election serves as a director for a term that terminates on the date that is the earlier of:

(i) Ninety days from the date on which the voting results are determined pursuant to § 29-305.29(b)(5); or

(ii) The date on which an individual is selected by the board of directors to fill the office held by the director, which selection shall be deemed to constitute the filling of a vacancy by the board to which § 29-306.10 applies.

(B) Subject to paragraph (3) of this subsection, a nominee who is elected but receives more votes against than for election shall not serve as a director beyond the 90-day period set forth in subparagraph (A)(i) of this paragraph.

(3) The board of directors may select any qualified individual to fill the office held by a director who received more votes against than for election.

(b) Subsection (a) of this section shall not apply to an election of directors by a voting group if (1) at the expiration of the time fixed under a provision requiring advance notification of director candidates, or (2) absent such a provision, at a time fixed by the board of directors which is not more than 14 days before notice is given of the meeting at which the election is to occur, there are more candidates for election by the voting group than the number of directors to be elected, one or more of whom are properly proposed by shareholders. An individual shall not be considered a candidate for purposes of this subsection if the board of directors determines before the notice of meeting is given that the individual's candidacy shall not create a bona fide election contest.

(c) A bylaw electing to be governed by this section shall be repealed:

(1) If originally adopted by the shareholders, only by the shareholders, unless the bylaw otherwise provides;

(2) If adopted by the board of directors, by the board of directors or the shareholders.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.05 and § 29-308.20. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

*Subchapter IX. Merger and Share Exchanges.***§ 29-309.01. Definitions.**

For the purposes of this subchapter, the term:

(1) “Acquired corporation” means the domestic or foreign corporation whose shares are acquired in a share exchange.

(2) “Acquiring corporation” means the domestic or foreign corporation that acquires shares in a share exchange.

(3) “Merger” means a business combination pursuant to § 29-309.02.

(4) “Party to a merger” or “party to a share exchange” means any domestic or foreign corporation that will:

(A) Merge under a plan of merger;

(B) Acquire shares of another corporation or an eligible entity in a share exchange; or

(C) Have all of its shares or all of one or more classes or series of its shares acquired in a share exchange.

(5) “Share exchange” means a business combination pursuant to § 29-309.03.

(6) “Survivor” in a merger means the corporation into which one or more other corporations are merged. A survivor of a merger may preexist the merger or be created by the merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-309.02. Merger.

(a) One or more domestic business corporations may merge with one or more domestic or foreign business corporations pursuant to a plan of merger, or 2 or more foreign business corporations or domestic may merge into a new domestic business corporation to be created in the merger, in the manner provided in this subchapter.

(b) A foreign business may be a party to a merger with a domestic business corporation, or may be the survivor in such a merger, if the merger is permitted by the jurisdiction of the foreign business corporation is incorporated.

(c) If the organic law of a domestic eligible entity does not provide procedures for the approval of a merger, a plan of merger may be adopted and approved, the merger effectuated, and appraisal rights exercised in accordance with the procedures in this subchapter and subchapter XI of this chapter. For the purposes of applying this subchapter and subchapter XI of this chapter:

(1) The eligible entity, its members or interest holders, eligible interests and organic documents taken together shall be deemed to be a domestic business corporation, shareholders, shares and articles of incorporation, respectively and vice versa as the context may require; and

(2) If the activities and affairs of the eligible entity are managed by a

group of persons that is not identical to the members or interest holders, that group shall be deemed to be the board of directors.

(d) The plan of merger shall include:

(1) The name of each domestic or foreign business corporation that will merge and the name of the domestic or foreign business corporation that will be the survivor of the merger;

(2) The terms and conditions of the merger;

(3) The manner and basis of converting the shares of each merging domestic or foreign business corporation into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing;

(4) The articles of incorporation of any domestic or foreign business corporation to be created by the merger, or if a new domestic or foreign business corporation is not to be created by the merger, any amendments to the survivor's articles of incorporation; and

(5) Any other provisions required by the laws under which any party to the merger is incorporated, or by the articles of incorporation of any such party.

(e) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-301.04.

(f) The plan of merger may also include a provision that the plan may be amended by the directors or shareholders of a domestic business corporation; provided, that the shareholders that were entitled to vote on the plan shall be entitled to vote on any amendment of the plan that will change:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be received under the plan by the shareholders of any party to the merger;

(2) The articles of incorporation of any corporation that will survive or be created as a result of the merger, except for changes permitted by § 29-308.05; or

(3) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

(g) A merger in which a business corporation and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(23), 59 DCR 13171.)

Section references. — This section is referenced in § 29-309.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities" for "business" in (c)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-309.03. Share exchange.

(a) Through a share exchange:

(1) A domestic business corporation may acquire all of the shares of one or more classes or series of shares of another domestic or foreign business corporation in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange; or

(2) All of the shares of one or more classes or series of shares of a domestic business corporation may be acquired by another domestic or foreign business corporation in exchange for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, cash, other property, or any combination of the foregoing, pursuant to a plan of share exchange.

(b) A foreign business corporation may be a party to a share exchange only if the share exchange is permitted by the laws under which the corporation is incorporated.

(c) The plan of share exchange shall include:

(1) The name of the acquired corporation and the name of the acquiring corporation;

(2) The terms and conditions of the share exchange;

(3) The manner and basis of exchanging shares of the acquired corporation into shares or other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing; and

(4) Any other provisions required by the laws under which any party to the share exchange is incorporated or by the articles of incorporation of any party.

(d) Terms of a plan of share exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-301.04.

(e) The plan of share exchange may also include a provision that the plan may be amended by the directors or shareholders of a domestic acquired corporation; provided, that the shareholders that were entitled to vote on the plan shall be entitled to vote on any amendment of the plan that will change:

(1) The amount or kind of shares or other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, or other property to be issued by the corporation or to be received under the plan by the shareholders of the acquired corporation; or

(2) Any of the other terms or conditions of the plan if the change would adversely affect such shareholders in any material respect.

(f) This section shall not limit the power of a domestic corporation to acquire shares of another corporation in a transaction other than a share exchange.

(g) A share exchange or interest exchange in which a business corporation and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-309.01.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-309.04. Action on a plan of merger or share exchange.

In the case of a domestic corporation that is a party to a merger or share exchange:

(1) The plan of merger or share exchange shall be adopted by the board of directors.

(2) Except as otherwise provided in paragraph (7) of this section and in § 29-309.05, after adopting the plan of merger or share exchange, the board of directors shall submit the plan to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(3) The board of directors may condition its submission of the plan of merger or share exchange to the shareholders on any basis.

(4) If the plan of merger or share exchange is required to be approved by the shareholders, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall also include or be accompanied by a copy or summary of the articles of incorporation of the survivor.

(5) Unless the articles of incorporation, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, approval of the plan of merger or share exchange shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the plan exists, and, if any class or series of shares is entitled to vote as a separate group on the plan of merger or share exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group consisting of at least a majority of the votes entitled to be cast on the merger or share exchange by that voting group is present.

(6) Separate voting by voting groups shall be required:

(A) On a plan of merger, by each class or series of shares that:

(i) Are to be converted under the plan of merger into other securities, eligible interests, obligations, rights to acquire shares, other securities or eligible interests, cash, other property, or any combination of the foregoing; or

(ii) Would be entitled to vote as a separate group on a provision in the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-308.04;

(B) On a plan of share exchange, by each class or series of shares included in the exchange, with each class or series constituting a separate voting group; and

(C) On a plan of merger or share exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or share exchange.

(7) Unless the articles of incorporation otherwise provide, approval by the corporation's shareholders of a plan of merger or share exchange shall not be required if:

(A) The corporation will survive the merger or is the acquiring corporation in a share exchange;

(B) Except for amendments permitted by § 29-308.05, its articles of incorporation will not be changed;

(C) Each shareholder of the corporation whose shares were outstanding immediately before the effective date of the merger or share exchange will hold the same number of shares, with identical preferences, limitations, and relative rights, immediately after the effective date of the merger or share exchange; and

(D) The issuance in the merger or share exchange of shares or other securities convertible into or rights exercisable for shares does not require a vote under § 29-304.21(f).

(8) If as a result of a merger or share exchange one or more shareholders of a domestic business corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, approval of the plan of merger or share exchange shall require the execution, by each such shareholder, of a separate written consent to become subject to such owner liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-309.05. Merger between parent and subsidiary or between subsidiaries.

(a) A domestic parent corporation that owns shares of a domestic or foreign subsidiary corporation that carry at least 90% of the voting power of each class and series of the outstanding shares of the subsidiary that have voting power may merge the subsidiary into itself or into another such subsidiary, or merge itself into the subsidiary, without the approval of the board of directors or shareholders of the subsidiary, unless the articles of incorporation of any of the corporations otherwise provide, and unless, in the case of a foreign subsidiary, approval by the subsidiary's board of directors or shareholders is required by the laws under which the subsidiary is organized.

(b) If, under subsection (a) of this section, approval of a merger by the subsidiary's shareholders is not required, the parent corporation shall, within 10 days after the effective date of the merger, notify each of the subsidiary's shareholders that the merger has become effective.

(c) Except as otherwise provided in subsections (a) and (b) of this section, a merger between a parent and a subsidiary shall be governed by the provisions of this subchapter applicable to mergers generally.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-309.04, § 29-311.01, § 29-311.02, § 29-311.10, and § 29-311.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-309.06. Articles of merger or share exchange.

(a) After a plan of merger or a plan of share exchange involving a domestic acquired corporation has been adopted and approved as required by this chapter, articles of merger or share exchange shall be signed on behalf of each party to the merger or the acquired corporation in the share exchange by any officer or other duly authorized representative. The articles shall set forth:

(1) The names of the parties to the merger or share exchange;

(2) If the articles of incorporation of the survivor of a merger are amended, or if a new corporation is created as a result of a merger, the amendments to the survivor's articles of incorporation or the articles of incorporation of the new corporation;

(3) If the plan of merger or share exchange required approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement that the plan was duly approved by the shareholders and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation;

(4) If the plan of merger or share exchange did not require approval by the shareholders of a domestic corporation that was a party to the merger or share exchange, a statement to that effect; and

(5) As to each foreign corporation that was a party to the merger or share exchange, a statement that the participation of the foreign corporation was duly authorized as required by the laws of the foreign jurisdiction.

(b) Articles of merger or share exchange shall be delivered to the Mayor for filing by the survivor of the merger or the acquiring corporation in a share exchange and shall be effective at the effective time provided in § 29-102.03.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(24), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "signed" for "executed" in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-309.07. Effect of merger or share exchange.

(a) When a merger becomes effective:

(1) The corporation that is designated in the plan of merger as the survivor shall continue or come into existence, as the case may be;

(2) The separate existence of every corporation that is merged into the survivor shall cease;

(3) All property owned by, and every contract right possessed by, each

corporation that merges into the survivor shall be vested in the survivor without reversion or impairment;

(4) All liabilities of each corporation that is merged into the survivor shall be vested in the survivor;

(5) The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(6) The articles of incorporation of the survivor shall be amended to the extent provided in the plan of merger;

(7) The articles of incorporation of a survivor that is created by the merger shall become effective; and

(8) The shares of each corporation that is a party to the merger, and the interests in an eligible entity that is a party to a merger, that are to be converted under the plan of merger into shares, other securities, eligible interests, obligations, rights to acquire shares, other securities, or eligible interests, cash, other property, or any combination of the foregoing, shall be converted, and the former holders of such shares shall be entitled only to the rights provided to them in the plan of merger or to any rights they may have under subchapter XI of this chapter.

(b) When a share exchange becomes effective, the shares of the acquired corporation that are to be exchanged for shares or other securities, eligible interests, obligations, rights to acquire shares or other securities, or eligible interests, cash, other property, or any combination of the foregoing, shall be entitled only to the rights provided to them in the plan of share exchange or to any rights they may have under subchapter XI of this chapter.

(c) A person that becomes subject to owner liability for some or all of the debts, obligations, or liabilities of any entity as a result of a merger or share exchange shall have owner liability only to the extent provided in the organic law of the entity and only for those debts, obligations, and liabilities that arise after the effective time of the articles of merger or share exchange.

(d) Upon a merger becoming effective, a foreign corporation that is the survivor of the merger shall be deemed to agree that:

(1) Service of process in a proceeding to enforce the rights of shareholders of each domestic corporation that is a party to the merger that exercise appraisal rights may be made in the manner provided in § 29-104.12; and

(2) It will promptly pay the amount, if any, to which such shareholders are entitled under subchapter XI of this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.58. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-309.08. Abandonment of a merger or share exchange.

(a) Unless otherwise provided in a plan of merger or share exchange or in the laws under which a foreign business corporation that is a party to a merger or a share exchange is, after the plan has been adopted and approved as

required by this subchapter, and at any time before the merger or share exchange has become effective, it may be abandoned by a domestic business corporation that is a party thereto without action by its shareholders in accordance with any procedures set forth in the plan of merger or share exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the merger or share exchange.

(b) If a merger or share exchange is abandoned under subsection (a) of this section after articles of merger or share exchange have been delivered to the Mayor for filing, but before the merger or share exchange has become effective, a statement that the merger or share exchange has been abandoned in accordance with this section, signed on behalf of a party to the merger or share exchange by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the merger or share exchange. Upon filing, the statement shall take effect and the merger or share exchange shall be deemed abandoned and shall not become effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(25), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 in (b), substituted “delivered to the Mayor for filing” for “filed with the Mayor” and substituted “signed” for “executed.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter X. Disposition of Assets.

§ 29-310.01. Disposition of assets not requiring shareholder approval.

The approval of the shareholders of a corporation shall not be required, unless the articles of incorporation otherwise provide, to:

- (1) Sell, lease, exchange, or otherwise dispose of any or all of the corporation's assets in the usual and regular course of business;
- (2) Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation's assets, whether or not in the usual and regular course of business;
- (3) Transfer any or all of the corporation's assets to one or more corporations or other entities all of the shares or interests of which are owned by the corporation; or
- (4) Distribute assets pro rata to the holders of one or more classes or series of the corporation's shares.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-310.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-310.02. Shareholder approval of certain dispositions.

(a) A sale, lease, exchange, or other disposition of assets, other than a disposition described in § 29-310.01, shall require approval of the corporation's shareholders if the disposition would leave the corporation without a significant continuing business activity. If a corporation retains a business activity that represented at least 25% of total assets at the end of the most recently completed fiscal year, and 25% of either income from continuing operations before taxes or revenues from continuing operations for that fiscal year, in each case of the corporation and its subsidiaries on a consolidated basis, the corporation shall conclusively be deemed to have retained a significant continuing business activity.

(b) A disposition that requires approval of the shareholders under subsection (a) of this section shall be initiated by a resolution by the board of directors authorizing the disposition. After adoption of such a resolution, the board of directors shall submit the proposed disposition to the shareholders for their approval. The board of directors shall also transmit to the shareholders a recommendation that the shareholders approve the proposed disposition, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the shareholders the basis for that determination.

(c) The board of directors may condition its submission of a disposition to the shareholders under subsection (b) of this section on any basis.

(d) If a disposition is required to be approved by the shareholders under subsection (a) of this section, and if the approval is to be given at a meeting, the corporation shall notify each shareholder, whether or not entitled to vote, of the meeting of shareholders at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition, including the terms and conditions thereof and the consideration to be received by the corporation.

(e) Unless the articles of incorporation or the board of directors acting pursuant to subsection (c) of this section requires a greater vote, or a greater number of votes to be present, the approval of a disposition by the shareholders shall require the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast on the disposition exists.

(f) After a disposition has been approved by the shareholders under subsection (b) of this section, and at any time before the disposition has been consummated, it may be abandoned by the corporation without action by the shareholders, subject to any contractual rights of other parties to the disposition.

(g) A disposition of assets in the course of dissolution under subchapter XII of this chapter shall not be governed by this section.

(h) The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent corporation for the purposes of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

CASE NOTES

Events constituting disposition.

Corporation's transfer of its major league baseball franchise from one location to another was not such disposition of assets as required approval of two-thirds of stockholders, under

District of Columbia law. D.C. Code 1951, § 29-929. *Murphy v. Washington Am. League Baseball Club, Inc.*, 293 F.2d 522, 1961 U.S. App. LEXIS 4201 (C.A.D.C. 1961).

Subchapter XI. Appraisal Rights.

PART A.

RIGHT TO APPRAISAL AND PAYMENT FOR SHARES.

§ 29-311.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Affiliate" means a person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with another person or is a senior executive thereof. For the purposes of § 29-311.02(b)(4), a person shall be deemed to be an affiliate of its senior executives.

(2) "Beneficial shareholder" means a person that is the beneficial owner of shares held in a voting trust or by a nominee on the beneficial owner's behalf.

(3) "Corporation" means the issuer of the shares held by a shareholder demanding appraisal and, for matters covered in §§ 29-311.12 to 29-311.31, includes the surviving entity in a merger.

(4) "Fair value" means the value of the corporation's shares determined:

(A) Immediately before the effectuation of the corporate action to which the shareholder objects;

(B) Using customary and current valuation concepts and techniques generally employed for similar businesses in the context of the transaction requiring appraisal; and

(C) Without discounting for lack of marketability or minority status, except, if appropriate, for amendments to the articles pursuant to § 29-311.02(a)(5).

(5) "Interest" means interest from the effective date of the corporate action until the date of payment at the rate of interest on judgments in the District on the effective date of the corporate action.

(6) "Interested transaction" means a corporate action described in § 29-311.02(a), other than a merger pursuant to § 29-309.05, involving an inter-

ested person in which any of the shares or assets of the corporation are being acquired or converted. For the purposes of this definition, the term:

(A) "Interested person" means a person, or an affiliate of a person, who at any time during the one-year period immediately preceding approval by the board of directors of the corporate action:

(i) Was the beneficial owner of 20% or more of the voting power of the corporation, other than as owner of excluded shares;

(ii) Had the power, contractually or otherwise, other than as owner of excluded shares, to cause the appointment or election of 25% or more of the directors to the board of directors of the corporation; or

(iii) Was a senior executive or director of the corporation or a senior executive of any affiliate thereof, and that senior executive or director will receive, as a result of the corporate action, a financial benefit not generally available to other shareholders as such, other than:

(I) Employment, consulting, retirement, or similar benefits established separately and not as part of or in contemplation of the corporate action;

(II) Employment, consulting, retirement, or similar benefits established in contemplation of, or as part of, the corporate action that are not more favorable than those existing before the corporate action or, if more favorable, that have been approved on behalf of the corporation in the same manner as is provided in § 29-306.72; or

(III) In the case of a director of the corporation, who will, in the corporate action, become a director of the acquiring entity in the corporate action or one of its affiliates, rights and benefits as a director that are provided on the same basis as those afforded by the acquiring entity generally to other directors of such entity or such affiliate.

(B) "Beneficial owner" means any person that, directly or indirectly, through any contract, arrangement, or understanding, other than a revocable proxy, has or shares the power to vote, or to direct the voting of, shares; provided, that a member of a national securities exchange shall not be deemed to be a beneficial owner of securities held directly or indirectly by it on behalf of another person solely because the member is the record holder of the securities if the member is precluded by the rules of the exchange from voting without instruction on contested matters or matters that may affect substantially the rights or privileges of the holders of the securities to be voted. When 2 or more persons agree to act together for the purpose of voting their shares of the corporation, each member of the group formed thereby shall be deemed to have acquired beneficial ownership, as of the date of the agreement, of all voting shares of the corporation beneficially owned by any member of the group.

(C) "Excluded shares" means shares acquired pursuant to an offer for all shares having voting power if the offer was made within one year prior to the corporate action for consideration of the same kind and of a value equal to or less than that paid in connection with the corporate action.

(7) "Preferred shares" means a class or series of shares whose holders have preference over any other class or series with respect to distributions.

(8) "Record shareholder" means the person in whose name shares are registered in the records of the corporation or the beneficial owner of shares to

the extent of the rights granted by a nominee certificate on file with the corporation.

(9) "Senior executive" means the chief executive officer, chief operating officer, chief financial officer, and anyone in charge of a principal business unit or function.

(10) "Shareholder" means a record shareholder or a beneficial shareholder.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-312.20. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-311.02. Right to appraisal.

(a) Except as otherwise provided in subsection (b) of this section, a shareholder shall be entitled to appraisal rights, and to obtain payment of the fair value of that shareholder's shares, in the event of any of the following corporate actions:

(1) Consummation of a merger to which the corporation is a party:

(A) If shareholder approval is required for the merger by § 29-309.04 and the shareholder is entitled to vote on the merger, except that appraisal rights shall not be available to any shareholder of the corporation with respect to shares of any class or series that remain outstanding after consummation of the merger; or

(B) If the corporation is a subsidiary and the merger is governed by § 29-309.05;

(2) Consummation of a share exchange in which the corporation is the acquired corporation if the shareholder is entitled to vote on the exchange, except that appraisal rights shall not be available to any shareholder of the corporation with respect to any class or series of shares of the corporation that is not exchanged;

(3) Consummation of a disposition of assets pursuant to § 29-310.02 if the shareholder is entitled to vote on the disposition;

(4) An amendment of the articles of incorporation with respect to a class or series of shares that reduces the number of shares of a class or series owned by the shareholder to a fraction of a share if the corporation has the obligation or right to repurchase the fractional share so created;

(5) Any other amendment to the articles of incorporation, merger, share exchange, or disposition of assets to the extent provided by the articles of incorporation, bylaws, or a resolution of the board of directors;

(6) Consummation of a domestication if the shareholder does not receive shares in the foreign corporation resulting from the domestication that have terms as favorable to the shareholder in all material respects, and represent at least the same percentage interest of the total voting rights of the outstanding shares of the corporation, as the shares held by the shareholder before the domestication; or

(7) Consummation of a conversion of the corporation to a different form of entity under Chapter 2 of this title.

(b) Notwithstanding subsection (a) of this section, the availability of appraisal rights under subsection (a)(1), (2), (3), (4), and (6) of this section shall be limited in accordance with the following provisions:

(1) Appraisal rights shall not be available for the holders of shares of any class or series of shares which is:

(A) A covered security under section 18(b)(1)(A) or (B) of the Securities Act of 1933, approved May 27, 1933 (48 Stat. 85; 15 U.S.C. § 77r);

(B) Traded in an organized market and has at least 2,000 shareholders and a market value of at least \$20 million, exclusive of the value of such shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders owning more than 10% of such shares; or

(C) Issued by an open end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, approved August 22, 1940 (54 Stat. 789; 15 U.S.C. § 80a-1 et seq.), and may be redeemed at the option of the holder at net asset value.

(2) The applicability of paragraph (1) of this subsection shall be determined as of:

(A) The record date fixed to determine the shareholders entitled to receive notice of, and to vote at, the meeting of shareholders to act upon the corporate action requiring appraisal rights; or

(B) The day before the effective date of such corporate action if there is no meeting of shareholders.

(3) Paragraph (1) of this subsection shall not be applicable and appraisal rights are available pursuant to subsection (a) of this section for the holders of any class or series of shares that are required by the terms of the corporate action requiring appraisal rights to accept for such shares anything other than cash or shares of any class or any series of shares of any corporation, or any other proprietary interest of any other entity, that satisfies the standards set forth in paragraph (1) of this subsection at the time the corporate action becomes effective.

(4) Paragraph (1) of this subsection shall not be applicable and appraisal rights shall be available pursuant to subsection (a) of this section for the holders of any class or series of shares if the corporate action is an interested transaction.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.01, § 29-311.10, § 29-311.11, § 29-311.12, and § 29-311.50.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-311.03. Assertion of rights by nominees and beneficial owners.

(a) A record shareholder may assert appraisal rights as to fewer than all the shares registered in the record shareholder's name but owned by a beneficial shareholder only if the record shareholder objects with respect to all shares of the class or series owned by the beneficial shareholder and notifies the corporation in writing of the name and address of each beneficial shareholder

on whose behalf appraisal rights are being asserted. The rights of a record shareholder that asserts appraisal rights for only part of the shares held of record in the record shareholder's name under this subsection shall be determined as if the shares as to which the record shareholder objects and the record shareholder's other shares were registered in the names of different record shareholders.

(b) A beneficial shareholder may assert appraisal rights as to shares of any class or series held on behalf of the shareholder only if the shareholder:

(1) Submits to the corporation the record shareholder's written consent to the assertion of such rights no later than the date referred to in § 29-311.12(b)(2)(B); and

(2) Does so with respect to all shares of the class or series that are beneficially owned by the beneficial shareholder.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

PROCEDURE FOR EXERCISE OF APPRAISAL RIGHTS.

§ 29-311.10. Notice of appraisal rights.

(a) If any corporate action specified in § 29-311.02(a) is to be submitted to a vote at a shareholders' meeting, the meeting notice shall state that the corporation has concluded that the shareholders are, are not, or may be entitled to assert appraisal rights under this subchapter. If the corporation concludes that appraisal rights are or may be available, a copy of this subchapter shall accompany the meeting notice sent to those record shareholders entitled to exercise appraisal rights.

(b) In a merger pursuant to § 29-309.05, the parent corporation shall notify in writing all record shareholders of the subsidiary who are entitled to assert appraisal rights that the corporate action became effective. The notice shall be sent within 10 days after the corporate action became effective and include the materials described in § 29-311.12.

(c) If any corporate action specified in § 29-311.02(a) is to be approved by written consent of the shareholders pursuant to § 29-305.04, written notice that appraisal rights are, are not, or may be available shall be:

(1) Sent to each record shareholder from which a consent is solicited at the time consent of such shareholder is first solicited and, if the corporation has concluded that appraisal rights are or may be available, shall be accompanied by a copy of this subchapter; and

(2) Delivered together with the notice to nonconsenting and nonvoting shareholders required by § 29-305.04(e) and (f), may include the materials described in § 29-311.12, and, if the corporation has concluded that appraisal

rights are or may be available, shall be accompanied by a copy of this subchapter.

(d) If corporate action described in § 29-311.02(a) is proposed, or a merger pursuant to § 29-309.05 is effected, the notice referred to in subsection (a) or (c) of this section, if the corporation concludes that appraisal rights are or may be available, and in subsection (b) of this section shall be accompanied by:

(1) The annual financial statements specified in § 29-313.07(a) of the corporation that issued the shares that may be subject to appraisal, which shall be as of a date ending not more than 16 months before the date of the notice and shall comply with § 29-313.07(b); provided, that if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information; and

(2) The latest available quarterly financial statements of such corporation, if any.

(e) The right to receive the information described in subsection (d) of this section may be waived in writing by a shareholder before or after the corporate action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(26), 59 DCR 13171.)

Section references. — This section is referenced in § 29-311.31.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Sent” for “Given” in (c)(1).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-311.11. Notice of intent to demand payment and consequences of voting or consenting.

(a) If a corporate action specified in § 29-311.02(a) is submitted to a vote at a shareholders’ meeting, a shareholder that wishes to assert appraisal rights with respect to any class or series of shares shall:

(1) Deliver to the corporation, before the vote is taken, written notice of the shareholder’s intent to demand payment if the proposed action is effectuated; and

(2) Not vote, or cause or permit to be voted, any shares of such class or series in favor of the proposed action.

(b) If a corporate action specified in § 29-311.02(a) is to be approved by less than unanimous written consent, a shareholder that wishes to assert appraisal rights with respect to any class or series of shares shall not sign a consent in favor of the proposed action with respect to that class or series of shares.

(c) A shareholder that fails to satisfy the requirements of subsection (a) or (b) of this section shall not be entitled to payment under this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(27), 59 DCR 13171.)

Section references. — This section is referenced in § 29-311.12.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “sign” for “execute” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-311.12. Appraisal notice and form.

(a) If a corporate action requiring appraisal rights under § 29-311.02(a) becomes effective, the corporation shall send an appraisal notice in a record and form required by subsection (b)(1) of this section to all shareholders who satisfy the requirements of § 29-311.11(a) or (b). In the case of a merger under § 29-309.05, the parent shall send an appraisal notice in a record and form to all record shareholders that may be entitled to assert appraisal rights.

(b) The appraisal notice shall be delivered no earlier than the date the corporate action specified in § 29-311.02(a) became effective, and no later than 10 days after such date, and shall:

(1) Supply a form that:

(A) Specifies the first date of any announcement to shareholders made before the date the corporate action became effective of the principal terms of the proposed corporate action;

(B) If such announcement was made, requires the shareholder asserting appraisal rights to certify whether beneficial ownership of those shares for which appraisal rights are asserted was acquired before that date; and

(C) Requires the shareholder asserting appraisal rights to certify that such shareholder did not vote for or consent to the transaction;

(2) State:

(A) Where the form must be sent and where certificates for certificated shares must be deposited and the date by which those certificates must be deposited, which date shall not be earlier than the date for receiving the required form under subparagraph (B) of this paragraph;

(B) A date by which the corporation must receive the form, which date may not be fewer than 40 nor more than 60 days after the date the appraisal notice is sent, and state that the shareholder has waived the right to demand appraisal with respect to the shares unless the form is received by the corporation by such specified date;

(C) The corporation’s estimate of the fair value of the shares;

(D) That, if requested in writing, the corporation will provide, to the shareholder so requesting, within 10 days after the date specified in paragraph (2)(B) of this subsection the number of shareholders that return the forms by the specified date and the total number of shares owned by them; and

(E) The date by which the notice to withdraw under § 29-311.13 shall be received, which date must be within 20 days after the date specified [in] subparagraph (B) of this paragraph; and

(3) Be accompanied by a copy of this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(28), 59 DCR 13171.)

Section references. — This section is referenced in § 29-311.01, § 29-311.03, § 29-311.10, § 29-311.13, § 29-311.14, § 29-311.15, and § 29-311.31.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “send” for “deliver” and “an appraisal notice in a record” for “a written appraisal notice” throughout (a); substituted “delivered” for “sent” in the introductory language of (b); and

substituted “is” for “and form required by subsection (a) of this section are” in (b)(2)(B).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-311.13. Perfection of rights; right to withdraw.

(a) A shareholder that receives notice pursuant to § 29-311.12 and that wishes to exercise appraisal rights shall sign and return the form sent by the corporation and, in the case of certificated shares, deposit the shareholder’s certificates in accordance with the terms of the notice by the date referred to in the notice pursuant to § 29-311.12(b)(2)(B). In addition, if applicable, the shareholder shall certify on the form whether the beneficial owner of such shares acquired beneficial ownership of the shares before the date required to be set forth in the notice pursuant to § 29-311.12(b)(1). If a shareholder fails to make this certification, the corporation may elect to treat the shareholder’s shares as after-acquired shares under § 29-311.15. Once a shareholder deposits that shareholder’s certificates or, in the case of uncertificated shares, returns the signed forms, that shareholder loses all rights as a shareholder, unless the shareholder withdraws pursuant to subsection (b).

(b) A shareholder that has complied with subsection (a) of this section may nevertheless decline to exercise appraisal rights and withdraw from the appraisal process by so notifying the corporation in writing by the date set forth in the appraisal notice pursuant to § 29-311.12(b)(2)(E). A shareholder that fails to so withdraw from the appraisal process may not thereafter withdraw without the corporation’s written consent.

(c) A shareholder that does not sign and return the form and, in the case of certificated shares, deposit that shareholder’s share certificates where required, each by the date set forth in the notice described in § 29-311.12(b), shall not be entitled to payment under this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.12 and § 29-311.14.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

§ 29-311.14. Payment.

(a) Except as otherwise provided in § 29-311.15, within 30 days after the form required by § 29-311.12(b)(2)(B) is due, the corporation shall pay in cash to those shareholders who complied with § 29-311.13(a) the amount the corporation estimates to be the fair value of their shares, plus interest.

(b) The payment to each shareholder pursuant to subsection (a) of this section shall be accompanied by:

(1) The annual financial statements specified in § 29-313.07(a) of the

corporation that issued the shares to be appraised, which shall be of a date ending not more than 16 months before the date of payment and shall comply with § 29-313.07(b); provided, that if such annual financial statements are not reasonably available, the corporation shall provide reasonably equivalent financial information, and the latest available quarterly financial statements of such corporation, if any;

(2) A statement of the corporation's estimate of the fair value of the shares, which estimate shall equal or exceed the corporation's estimate given pursuant to § 29-311.12(b)(2)(C);

(3) A statement that shareholders described in subsection (a) of this section have the right to demand further payment under § 29-311.16 and that if any such shareholder does not do so within the time period specified therein, the shareholder shall be deemed to have accepted such payment in full satisfaction of the corporation's obligations under this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.15, § 29-311.16, and § 29-311.31.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-311.15. After-acquired shares.

(a) A corporation may elect to withhold payment required by § 29-311.14 from any shareholder that was required to, but did not, certify that beneficial ownership of all of the shareholder's shares for which appraisal rights are asserted was acquired before the date set forth in the appraisal notice sent pursuant to § 29-311.12(b)(1).

(b) If the corporation elected to withhold payment under subsection (a) of this section, it shall, within 30 days after the form required by § 29-311.12(b)(2)(B) is due, notify all shareholders described in subsection (a) of this section:

(1) Of the information required by § 29-311.14(b)(1);

(2) Of the corporation's estimate of fair value pursuant to § 29-311.14(b)(2);

(3) That they may accept the corporation's estimate of fair value, plus interest, in full satisfaction of their demands or demand appraisal under § 29-311.16;

(4) That those shareholders that wish to accept such offer shall so notify the corporation of their acceptance of the corporation's offer within 30 days after receiving the offer; and

(5) That those shareholders that do not satisfy the requirements for demanding appraisal under § 29-311.16 shall be deemed to have accepted the corporation's offer.

(c) Within 10 days after receiving the shareholder's acceptance pursuant to subsection (b) of this section, the corporation shall pay in cash the amount it offered under subsection (b)(2) of this section to each shareholder that agreed to accept the corporation's offer in full satisfaction of the shareholder's demand.

(d) Within 40 days after sending the notice described in subsection (b) of this section, the corporation shall pay in cash the amount it offered to pay under subsection (b)(2) of this section to each shareholder described in subsection (b)(5) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.13, § 29-311.14, § 29-311.16, § 29-311.30, and § 29-311.31.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-311.16. Procedure if shareholder dissatisfied with payment or offer.

(a) A shareholder paid pursuant to § 29-311.14 that is dissatisfied with the amount of the payment shall notify the corporation in writing of that shareholder's estimate of the fair value of the shares and demand payment of that estimate plus interest, less any payment under § 29-311.14. A shareholder offered payment under § 29-311.15 that is dissatisfied with that offer shall reject the offer and demand payment of the shareholder's stated estimate of the fair value of the shares plus interest.

(b) A shareholder that fails to notify the corporation in writing of that shareholder's demand to be paid the shareholder's stated estimate of the fair value plus interest under subsection (a) of this section within 30 days after receiving the corporation's payment or offer of payment under § 29-311.14 or § 29-311.15, respectively, waives the right to demand payment under this section and is entitled only to the payment made or offered pursuant to those respective sections.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-311.14, § 29-311.15, § 29-311.30, and § 29-311.31.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.

JUDICIAL APPRAISAL OF SHARES.

§ 29-311.30. Judicial proceeding.

(a) If a shareholder makes demand for payment under § 29-311.16 which remains unsettled, the corporation shall commence a proceeding within 60 days after receiving the payment demand and petition the Superior Court to determine the fair value of the shares and accrued interest. If the corporation does not commence the proceeding within the 60-day period, it shall pay in cash to each shareholder the amount the shareholder demanded pursuant to § 29-311.16 plus interest.

(b) The corporation shall commence the proceeding in the Superior Court.

(c) The corporation shall make all shareholders, whether or not residents of

the District, whose demands remain unsettled parties to the proceeding as in an action against their shares, and all parties must be served with a copy of the petition. Nonresidents may be served by registered or certified mail or by publication as provided by law.

(d) The jurisdiction of the Superior Court in which the proceeding is commenced under subsection (b) shall be plenary and exclusive. The court may appoint one or more persons as appraisers to receive evidence and recommend a decision on the question of fair value. The appraisers have the powers described in the order appointing them, or in any amendment to it. The shareholders demanding appraisal rights shall be entitled to the same discovery rights as parties in other civil proceedings. There shall be no right to a jury trial.

(e) Each shareholder made a party to the proceeding shall be entitled to judgment:

(1) For the amount, if any, by which the Superior Court finds the fair value of the shareholder's shares, plus interest, exceeds the amount paid by the corporation to the shareholder for such shares or

(2) For the fair value, plus interest, of the shareholder's shares for which the corporation elected to withhold payment under § 29-311.15.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-311.31. Court costs and expenses.

(a) The Superior Court in an appraisal proceeding commenced under § 29-311.2 [§ 29-311.12] shall determine all court costs of the proceeding, including the reasonable compensation and expenses of appraisers appointed by the court. The court shall assess the court costs against the corporation, except that the court may assess court costs against all or some of the shareholders demanding appraisal, in amounts which the court finds equitable, to the extent the court finds the shareholders acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

(b) The Superior Court in an appraisal proceeding may also assess the expenses of the respective parties in amounts the court finds equitable:

(1) Against the corporation and in favor of any or all shareholders demanding appraisal if the court finds the corporation did not substantially comply with the requirements of § 29-311.10, § 29-311.12, § 29-311.14, or § 29-311.15; or

(2) Against either the corporation or a shareholder demanding appraisal, in favor of any other party, if the court finds the party against whom expenses are assessed acted arbitrarily, vexatiously, or not in good faith with respect to the rights provided by this subchapter.

(c) If the Superior Court in an appraisal proceeding finds that the expenses incurred by any shareholder were of substantial benefit to other shareholders similarly situated and that the expenses should not be assessed against the

corporation, the court may direct that the expenses be paid out of the amounts awarded the shareholders who were benefited.

(d) To the extent the corporation fails to make a required payment pursuant to § 29-311.14, § 29-311.15, or § 29-311.16, the shareholder may sue directly for the amount owed, and to the extent successful, shall be entitled to recover from the corporation all expenses of the suit.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART D.

OTHER REMEDIES.

§ 29-311.50. Other remedies limited.

(a) The legality of a proposed or completed corporate action described in § 29-311.02(a) shall not be contested and the corporate action shall not be enjoined, set aside, or rescinded, in a legal or equitable proceeding by a shareholder after the shareholders have approved the corporate action.

(b) Subsection (a) of this section shall not apply to a corporate action that:

(1) Was not authorized and approved in accordance with the applicable provisions of:

(A) Subchapter VII, VIII, IX, or X of this chapter;

(B) The articles of incorporation or bylaws; or

(C) The resolution of the board of directors authorizing the corporate action;

(2) Was procured as a result of fraud, a material misrepresentation, or an omission of a material fact necessary to make statements made, in light of the circumstances in which they were made, not misleading;

(3) Is an interested transaction, unless it has been recommended by the board of directors in the same manner as is provided in § 29-306.72 and has been approved by the shareholders in the same manner as is provided in § 29-306.73 as if the interested transaction were a director's conflicting interest transaction; or

(4) Is approved by less than unanimous consent of the voting shareholders pursuant to § 29-305.04 if:

(A) The challenge to the corporate action is brought by a shareholder that did not consent and as to which notice of the approval of the corporate action was not effective at least 10 days before the corporate action was effected; and

(B) The proceeding challenging the corporate action is commenced within 10 days after notice of the approval of the corporate action is effective as to the shareholder bringing the proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter XII. Dissolution.

PART A.

VOLUNTARY DISSOLUTION.

§ 29-312.01. Dissolution by incorporators or initial directors.

A majority of the incorporators or initial directors of a corporation that has not issued shares or has not commenced business may dissolve the corporation by delivering to the Mayor for filing articles of dissolution that set forth:

- (1) The name of the corporation;
- (2) The date of its incorporation;
- (3)(A) That none of the corporation's shares has been issued; or
(B) That the corporation has not commenced business;
- (4) That no debt of the corporation remains unpaid;
- (5) That the net assets of the corporation remaining after winding up have been distributed to the shareholders, if shares were issued; and
- (6) That a majority of the incorporators or initial directors authorized the dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

A corporation does not cease to exist through the discontinuance of its business, the failure to maintain its active organization, or by becom-

ing hopelessly insolvent. *Fields v. U.S.*, 27 App.D.C. 433, 1906 U.S. App. LEXIS 5187 (1906).

§ 29-312.02. Dissolution by board of directors and shareholders.

(a) A corporation's board of directors may propose dissolution for submission to the shareholders.

(b) For a proposal to dissolve to be adopted:

(1) The board of directors shall recommend dissolution to the shareholders unless the board of directors determines that because of conflict of interest or other special circumstances it should make no recommendation and communicates the basis for its determination to the shareholders; and

(2) The shareholders entitled to vote must approve the proposal to dissolve as provided in subsection (e) of this section.

(c) The board of directors may condition its submission of the proposal for dissolution on any basis.

(d) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting. The notice shall also state that the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation.

(e) Unless the articles of incorporation or the board of directors acting pursuant to subsection (c) of this section require a greater vote, a greater number of shares to be present, or a vote by voting groups, adoption of the proposal to dissolve requires the approval of the shareholders at a meeting at which a quorum consisting of at least a majority of the votes entitled to be cast exists.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-312.24. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-312.03. Articles of dissolution.

(a) At any time after dissolution is authorized, the corporation may dissolve by delivering to the Mayor for filing articles of dissolution setting forth:

(1) The name of the corporation;

(2) The date dissolution was authorized; and

(3) If dissolution was approved by the shareholders, a statement that the proposal to dissolve was duly approved by the shareholders in the manner required by this chapter and by the articles of incorporation.

(b) A corporation shall be dissolved upon the effective date of its articles of dissolution.

(c) For purposes of this part, the term "dissolved corporation" means a corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-312.04, § 29-312.24, and § 29-516.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-312.04. Revocation of dissolution.

(a) A corporation may revoke its dissolution within 120 days of its effective date.

(b) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without shareholder action.

(c) After the revocation of dissolution is authorized, the corporation may revoke the dissolution by delivering to the Mayor for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

- (1) The name of the corporation;
- (2) The effective date of the dissolution that was revoked;
- (3) The date that the revocation of dissolution was authorized;
- (4) If the corporation's board of directors, or incorporators, revoked the dissolution, a statement to that effect;
- (5) If the corporation's board of directors revoked a dissolution authorized by the shareholders, a statement that revocation was permitted by action by the board of directors alone pursuant to that authorization; and
- (6) If shareholder action was required to revoke the dissolution, the information required by § 29-312.03(a)(3).

(d) Revocation of dissolution shall be effective upon the effective date of the articles of revocation of dissolution.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the corporation resumes carrying on its business as if dissolution had never occurred.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-312.05. Effect of dissolution.

(a) A dissolved corporation continues its corporate existence but shall not carry on any activities except that appropriate to wind up and liquidate its business and affairs, including:

- (1) Collecting its assets;
- (2) Disposing of its properties that will not be distributed in kind to its shareholders;
- (3) Discharging or making provision for discharging its liabilities;
- (4) Distributing its remaining property among its shareholders according to their interests; and
- (5) Doing every other act necessary to wind up and liquidate its activities and affairs.

(b) Dissolution of a corporation shall not:

- (1) Transfer title to the corporation's property;
- (2) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;
- (3) Subject its directors or officers to standards of conduct different from those prescribed in subchapter VI of this chapter;
- (4) Change:
 - (A) Quorum or voting requirements for its board of directors or shareholders;

(B) Provisions for selection, resignation, or removal of its directors or officers, or both;

(C) Provisions for amending its bylaws;

(5) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(6) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(7) Terminate the authority of the registered agent of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(29), 59 DCR 13171.)

Section references. — This section is referenced in § 29-312.23 and § 29-312.24.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” twice in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Foreign corporations.
In general.

Foreign corporations.

District of Columbia statutes preserving litigation rights after dissolution of corporation, has reference only to local corporations, and does not apply to a mutual casualty company incorporated under the laws of Pennsylvania and doing business in the District of Columbia which was dissolved by a Pennsylvania court. D.C. Code 1940, §§ 29-716, 29-718. *Sedgwick v. Beasley*, 173 F.2d 918, 1949 U.S. App. LEXIS 2948 (C.A.D.C. 1949).

Where mutual casualty company incorporated under laws of Pennsylvania and doing business in the District of Columbia was dissolved by a Pennsylvania court, and Pennsylvania statutes did not preserve a right of action against the corporation after its dissolution, a suit against the corporation in a municipal

court of the District on a money claim and attachment of personal property of the corporation were void, and action of the federal district court, through receiver of the corporation, in taking over the property notwithstanding the attachments, was proper. 15 P.S.Pa. §§ 2852-4, 2852-1111; 40 P.S.Pa. §§ 202, 206; D.C. Code 1940, § 29-716, 29-718. *Sedgwick v. Beasley*, 173 F.2d 918, 1949 U.S. App. LEXIS 2948 (C.A.D.C. 1949).

In general.

Action properly brought against company in corporate name, even after dissolution. *Lyman v. Knickerbocker Theatre Co. of Washington, D.C.*, 5 F.2d 538, 1925 U.S. App. LEXIS 2703 (1925).

Generally, corporation once dissolved is a nullity with regard to participating in a proceeding. *Clover Dairy Co. to Use of Bettar Ice Cream Co. v. Misler*, 85 A.2d 914, 1952 D.C. App. LEXIS 122 (Cr.App. 1952).

§ 29-312.06. Known claims against dissolved corporation.

(a) A dissolved corporation may dispose of the known claims against it by notifying its known claimants in writing of the dissolution at any time after its effective date.

(b) The written notice shall:

(1) Describe information that must be included in a claim;

(2) Provide a mailing address where a claim may be sent;

(3) State the deadline, which may not be fewer than 120 days from the

effective date of the written notice, by which the dissolved corporation must receive the claim; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the dissolved corporation shall be barred if a claimant:

(1) That was given written notice under subsection (b) of this section does not deliver the claim to the dissolved corporation by the deadline; or

(2) Whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section, the term "claim" does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-312.07, § 29-312.09, and § 29-312.23.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Causes of action.
Claims in existence.

Causes of action.

District of Columbia statute stating that causes of action on rights or claims of corporation existing prior to dissolution by proclamation for failure to file annual reports and pay related fees must be brought within two years applies to claims which so arose, notwithstanding statute providing that when corporation is dissolved by proclamation it shall nevertheless be continued for term of three years for purpose of prosecuting and defending suits. D.C. Code 1961, §§ 29-931i, 29-938(d). *Columbia Institute of Radio & Television Broadcasting, Inc. v. Shehyn*, 336 F.2d 974, 1964 U.S. App. LEXIS 4543 (C.A.D.C. 1964).

District of Columbia corporation, articles of incorporation of which had been revoked for failure to pay required annual report fee, and which did not wish to be reinstated because it was no longer in business, could properly maintain an action which was instituted prior to revocation without paying annual report fee. D.C. Code §§ 29-931 to 29-931i, 29-938 to 29-938(d), 29-941(b). *M. A. S. Inc. v. Van Curler Broadcasting Corp.*, 357 F. Supp. 686, 1973 U.S. Dist. LEXIS 14061 (1973).

District of Columbia statute providing that no corporation required to pay a fee, charge or penalty shall maintain in District of Columbia any action until all such fees and penalties have been paid in full was not intended to apply to a corporation whose articles of incorporation have been revoked for failure to pay annual report fees. D.C. Code § 29-941(b). *M. A. S. Inc. v. Van Curler Broadcasting Corp.*, 357 F. Supp. 686, 1973 U.S. Dist. LEXIS 14061 (1973).

Claims in existence.

District of Columbia statute providing that suit by corporation dissolved by proclamation for failure to file reports and pay related fees with reference to right on claims prior to dissolution must be brought within two years would not bar such a corporation's claim filed more than two years after dissolution that it was object of illegitimate scheme to eliminate it from the market and that purpose was mainly effectuated by improper appropriation of its corporate name, thereby frustrating its purpose to secure its reinstatement, since it was not a claim or right in existence prior to dissolution. D.C. Code 1961, §§ 29-901 to 29-958, 29-906a, 29-931i, 29-937, 29-938(a), 29-938c, d. *Columbia Institute of Radio & Television Broadcasting, Inc. v. Shehyn*, 336 F.2d 974, 1964 U.S. App. LEXIS 4543 (C.A.D.C. 1964).

§ 29-312.07. Other claims against dissolved corporation.

(a) A dissolved corporation may also publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(b) The notice shall:

(1) Be published one time in a newspaper of general circulation in the District;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim may be sent; and

(3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of the notice.

(c) If the dissolved corporation publishes a newspaper notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 3 years after the publication date of the newspaper notice:

(1) A claimant that was not given written notice under § 29-312.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on;

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim that is not barred by § 29-312.06(c) or subsection (c) of this section may be enforced:

(1) Against the dissolved corporation, to the extent of its undistributed assets; or

(2) Except as otherwise provided in § 29-312.08(d), if the assets have been distributed in liquidation, against a shareholder of the dissolved corporation to the extent of the shareholder's pro rata share of the claim or the corporate assets distributed to the shareholder in liquidation, whichever is less, but a shareholder's total liability for all claims under this section shall not exceed the total amount of assets distributed to the shareholder.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-312.08, § 29-312.09, and § 29-312.23.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-312.08. Court proceedings.

(a) A dissolved corporation that has published a notice under § 29-312.07 may file an application with the Superior Court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under § 29-312.07(c).

(b) Within 10 days after the filing of the application, notice of the proceeding shall be given by the dissolved corporation to each claimant holding a

contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(c) The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of such guardian, including all reasonable expert witness fees, shall be paid by the dissolved corporation.

(d) Provision by the dissolved corporation for security in the amount and the form ordered by the Superior Court under § 29-312.08(a) satisfies the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation, or are based on an event occurring after the effective date of dissolution. Such claims shall not be enforced against a shareholder that received assets in liquidation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(30), 59 DCR 13171.)

Section references. — This section is referenced in § 29-312.07 and § 29-312.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Court" for "Judicial" in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-312.09. Director duties.

(a) Directors shall cause the dissolved corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets to shareholders after payment or provision for claims.

(b) Directors of a dissolved corporation which has disposed of claims under § 29-312.06, § 29-312.07, or § 29-312.08 shall not be liable for breach of subsection (a) of this section with respect to claims against the dissolved corporation that are barred or satisfied under § 29-312.06, § 29-312.07, or § 29-312.08.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-306.32.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

PART B.

JUDICIAL DISSOLUTION.

§ 29-312.20. Grounds for judicial dissolution.

(a) The Superior Court may dissolve a corporation:

(1) In a proceeding by the Attorney General for the District of Columbia if it is established that the corporation:

(A) Obtained its articles of incorporation through fraud; or

(B) Has continued to exceed or abuse the authority conferred upon it by law;

(2) In a proceeding by a shareholder if it is established that:

(A) The directors are deadlocked in the management of the corporate affairs, the shareholders are unable to break the deadlock, and irreparable injury to the corporation is threatened or being suffered, or the activities and affairs of the corporation can no longer be conducted to the advantage of the shareholders generally, because of the deadlock;

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) The shareholders are deadlocked in voting power and have failed, for a period that includes at least 2 consecutive annual meeting dates, to elect successors to directors whose terms have expired; or

(D) The corporate assets are being misapplied or wasted;

(3) In a proceeding by a creditor if it is established that:

(A) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(B) The corporation has admitted in writing that the creditor's claim is due and owing and the corporation is insolvent;

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision; or

(5) In a proceeding by a shareholder if the corporation has abandoned its business and has failed within a reasonable time to liquidate and distribute its assets and dissolve.

(b) Subsection (a)(2) of this section shall not apply in the case of a corporation that, on the date of the filing of the proceeding, has shares which are:

(1) Listed on the New York Stock Exchange, the American Stock Exchange or on any exchange owned or operated by the NASDAQ Stock Market LLC, or listed or quoted on a system owned or operated by the Financial Industry Regulatory Authority; or

(2) Not so listed or quoted, but are held by at least 300 shareholders and the shares outstanding have a market value of at least \$20 million, exclusive of the value of the shares held by the corporation's subsidiaries, senior executives, directors, and beneficial shareholders owning more than 10% of such shares) [sic].

(c) For the purposes of this section, the term "beneficial shareholder" has the meaning specified in § 29-311.01(2).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(31), 59 DCR 13171.)

Cross references. — Regional interstate banking, violations threatening solvency or prejudicing consumers' rights, petition for involuntary dissolution, see § 26-712.

Section references. — This section is ref-

erenced in § 29-303.04, § 29-312.21, § 29-312.23, and § 29-312.24.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities" for "business" in (a)(2)(A).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-312.21. Procedure for judicial dissolution.

(a) It shall not be necessary to make shareholders parties to a proceeding to dissolve a corporation unless relief is sought against them individually.

(b) The Superior Court in a proceeding brought to dissolve a corporation may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the business of the corporation until a full hearing can be held.

(c) Within 10 days of the commencement of a proceeding to dissolve a corporation under § 29-312.20(a)(2), the corporation shall send to all shareholders, other than the petitioner, a notice stating that the shareholders are entitled to avoid the dissolution of the corporation by electing to purchase the petitioner's shares under § 29-312.24 and accompanied by a copy of § 29-312.24.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-312.22. Receivership or custodianship.

(a) Unless an election to purchase has been filed under § 29-312.24, the Superior Court in a judicial proceeding brought to dissolve a corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the activities and affairs of the corporation. The court shall hold a hearing, after notifying all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has jurisdiction over the corporation and all of its property wherever located.

(b) The Superior Court may appoint an individual or a domestic or foreign corporation, authorized to do business in the District, as a receiver or custodian. The court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The Superior Court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended. Among other powers:

(1) The receiver may:

(A) Dispose of all or any part of the assets of the corporation wherever located, at a public or private sale, if authorized by the court; and

(B) Sue and defend in his or her own name as receiver of the corporation;

(2) The custodian may exercise all of the powers of the corporation,

through or in place of its board of directors, to the extent necessary to manage the affairs of the corporation in the best interests of its shareholders and creditors.

(d) The Superior Court during a receivership may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is in the best interests of the corporation, its shareholders, and its creditors.

(e) The Superior Court during the receivership or custodianship may order compensation paid and expenses paid or reimbursed to the receiver or custodian from the assets of the corporation or proceeds from the sale of the assets.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(32), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-312.23. Decree of dissolution.

(a) If, after a hearing, the Superior Court determines that one or more grounds for judicial dissolution described in § 29-312.20 exist, it may enter a decree dissolving the corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Mayor, who shall file it.

(b) After entering the decree of dissolution, the Superior Court shall direct the winding-up and liquidation of the corporation’s activities and affairs in accordance with § 29-312.05 and the notification of claimants in accordance with §§ 29-312.06 and 29-312.07.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(33), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-312.24. Election to purchase in lieu of dissolution.

(a) In a proceeding under § 29-312.20(a)(2) to dissolve a corporation, the corporation may elect or, if it fails to elect, one or more shareholders may elect to purchase all shares owned by the petitioning shareholder at the fair value of the shares. An election pursuant to this section shall be irrevocable unless the court determines that it is equitable to set aside or modify the election.

(b) An election to purchase pursuant to this section may be filed with the

Superior Court at any time within 90 days after the filing of the petition under § 29-312.20(a)(2) or at such later time as the court in its discretion may allow. If the election to purchase is filed by one or more shareholders, the corporation shall, within 10 days thereafter, give written notice to all shareholders, other than the petitioner. The notice shall state the name and number of shares owned by the petitioner and the name and number of shares owned by each electing shareholder and shall advise the recipients of their right to join in the election to purchase shares in accordance with this section. Shareholders that wish to participate shall file notice of their intention to join in the purchase no later than 30 days after the effective date of the notice to them. All shareholders that have filed an election or notice of their intention to participate in the election to purchase thereby become parties to the proceeding and shall participate in the purchase in proportion to their ownership of shares as of the date the first election was filed, unless they otherwise agree or the court otherwise directs. After an election has been filed by the corporation or one or more shareholders, the proceeding under § 29-312.20(a)(2) shall not be discontinued or settled and the petitioning shareholder shall not sell or otherwise dispose of his or her shares, unless the court determines that it would be equitable to the corporation and the shareholders, other than the petitioner, to permit such discontinuance, settlement, sale, or other disposition.

(c) If, within 60 days of the filing of the first election, the parties reach agreement as to the fair value and terms of purchase of the petitioner's shares, the Superior Court shall enter an order directing the purchase of petitioner's shares upon the terms and conditions agreed to by the parties.

(d) If the parties are unable to reach an agreement as provided for in subsection (c) of this section, the Superior Court, upon application of any party, shall stay the § 29-312.20(a)(2) proceedings and determine the fair value of the petitioner's shares as of the day before the date on which the petition under § 29-312.20(a)(2) was filed or as of such other date as the court deems appropriate under the circumstances.

(e) Upon determining the fair value of the shares, the Superior Court shall enter an order directing the purchase upon such terms and conditions as the court considers appropriate, which may include payment of the purchase price in installments, if necessary in the interests of equity, provision for security to assure payment of the purchase price and any additional expenses as may have been awarded, and, if the shares are to be purchased by shareholders, the allocation of shares among them. In allocating petitioner's shares among holders of different classes of shares, the court shall attempt to preserve the existing distribution of voting rights among holders of different classes insofar as practicable and may direct that holders of a specific class or classes not participate in the purchase. Interest may be allowed at the rate and from the date determined by the court to be equitable, but if the court finds that the refusal of the petitioning shareholder to accept an offer of payment was arbitrary or otherwise not in good faith, no interest shall be allowed. If the court finds that the petitioning shareholder had probable grounds for relief under § 29-312.20(a)(2)(B) or (D), it may award expenses to the petitioning shareholder.

(f) Upon entry of an order under subsections (c) or (e) of this section, the Superior Court shall dismiss the petition to dissolve the corporation under § 29-312.20(a)(2), and the petitioning shareholder shall no longer have any rights or status as a shareholder of the corporation, except the right to receive the amounts awarded by the order of the court which is enforceable in the same manner as any other judgment.

(g) The purchase ordered pursuant to subsection (e) of this section shall be made within 10 days after the date the order becomes final unless before that time the corporation files with the Superior Court a notice of its intention to adopt articles of dissolution pursuant to §§ 29-312.02 and 29-312.03, which articles shall then be adopted and filed within 50 days thereafter. Upon filing of such articles of dissolution, the corporation is dissolved in accordance with §§ 29-312.05 through 29-312.07, and the order entered pursuant to subsection (e) of this section shall no longer be of any force or effect, except that the court may award the petitioning shareholder expenses in accordance with the last sentence of subsection (e) of this section and the petitioner may continue to pursue any claims previously asserted on behalf of the corporation.

(h) Any payment by the corporation pursuant to an order under subsections (c) or (e) of this section, other than an award of expenses pursuant to subsection (e) of this section, shall be subject to § 29-304.60.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-312.21 and § 29-312.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART C.

MISCELLANEOUS.

§ 29-312.40. Deposit with Mayor.

Assets of a dissolved corporation that should be transferred to a creditor, claimant, or shareholder of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the Mayor for safekeeping. When the creditor, claimant, or shareholder furnishes satisfactory proof of entitlement to the amount deposited, the Mayor shall pay the person or the person's representative that amount.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter XIII. Records and Reports.

PART A.

RECORDS.

§ 29-313.01. Corporate records.

(a) A corporation shall keep as permanent records minutes of all meetings of its shareholders and board of directors, a record of all actions taken by the shareholders or board of directors without a meeting, and a record of all actions taken by a committee of the board of directors in place of the board of directors on behalf of the corporation.

(b) A corporation shall maintain appropriate accounting records.

(c) A corporation or its agent shall maintain a record of its shareholders, in a form that permits preparation of a list of the names and addresses of all shareholders, in alphabetical order by class of shares showing the number and class of shares held by each.

(d) A corporation shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(e) A corporation shall keep a copy of the following records at its principal office:

(1) Its articles or restated articles of incorporation, all amendments to them currently in effect, and any notices to shareholders referred to in § 29-301.04 regarding facts on which a filed document is dependent;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) Resolutions adopted by its board of directors creating one or more classes or series of shares, and fixing their relative rights, preferences, and limitations, if shares issued pursuant to those resolutions are outstanding;

(4) The minutes of all shareholders' meetings, and records of all action taken by shareholders without a meeting, for the past 3 years;

(5) All written communications to shareholders generally within the past 3 years, including the financial statements furnished for the past 3 years under § 29-313.07;

(6) A list of the names and business addresses of its current directors and officers; and

(7) Its most recent biennial report delivered to the Mayor under § 29-102.11.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Cross references. — Production of books and papers, quo warranto, see § 16-3547.

Section references. — This section is referenced in § 29-301.03, § 29-306.40, and § 29-313.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

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Actions and proceedings.
Common law examination claims.
Duty to keep records.

Actions and proceedings.

Findings, in prior suit favorable to corporation which administered homeowners warranty program for benefit of its member builders, that its subsidiaries were closely interrelated with it precluded corporation, in subsequent suit by members seeking disclosure of books and records of subsidiaries, from claiming that subsidiaries were separate entities. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Common law examination claims.

Request by members of nonstock, profit-making corporation to inspect corporation's books and records was not an invasion of corporation's internal affairs so as to deprive district court of jurisdiction under Rogers doctrine, where all books and records were housed in district. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Neither statutes of District of Columbia nor those of Delaware governed controversy presented by request of members of nonstock, profit-making Delaware corporation officed in District of Columbia seeking to inspect corporation's books and records, and thus common law governed dispute; Delaware had greater interest in application of its common law, and thus primary reliance would be on that state's rulings. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Whether stockholder or member, common law requires assertion of "proper purpose" before corporation must yield up its books, records and membership lists to request for inspection. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Members of nonstock, profit-making corporation which administered homeowners warranty program for benefit of its member builders satisfied their common-law burden of proving proper purpose to inspect corporation's books and records, where stated purpose of request was to ascertain whether corporation was being prudently managed, particularly with regard to its fiscal affairs, and to determine financial and operating conditions of corporation and to ascertain whether rates being charged to builder members were being applied uniformly. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Members of nonstock, profit-making corporation which administered homeowners warranty program for benefit of its member builders failed to satisfy their common-law burden of proving proper purpose to inspect corporation's list of builder members, where members provided no substantive purpose for request beyond desire to communicate with fellow members. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Where members of corporation which administered homeowners warranty program for benefit of its member builders failed to demand corporation to allow them to inspect its books and records, they lacked standing in suit to compel inspection. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Duty to keep records.

The provision of Business Corporation Act of District of Columbia providing that each corporation "shall keep at each registered office or principal place of business, or at the office of its transfer agent or registrar, a record of its shareholders" contemplated that principal place of business might also be outside the District after organization. D.C. Code 1951, § 29-920(a). *Murphy v. Washington Am. League Base Ball Club, Inc.*, 167 F.Supp. 215, 1958 U.S. Dist. LEXIS 3403 (D.D.C.1958).

§ 29-313.02. Inspection of records by shareholders.

(a) A shareholder of a corporation shall be entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in § 29-313.01(e) if the shareholder gives the corporation notice in a record of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy.

(b) A shareholder of a corporation shall be entitled to inspect and copy, during regular business hours at a reasonable location specified by the

corporation, any of the following records of the corporation if the shareholder meets the requirements of subsection (c) of this section and gives the corporation notice in a record of the shareholder's demand at least 5 business days before the date on which the shareholder wishes to inspect and copy:

(1) Excerpts from minutes of any meeting of the board of directors, records of any action of a committee of the board of directors while acting in place of the board of directors on behalf of the corporation, minutes of any meeting of the shareholders, and records of action taken by the shareholders or board of directors without a meeting, to the extent not subject to inspection under § 29-313.02(a);

(2) Accounting records of the corporation; and

(3) The record of shareholders.

(c) A shareholder may inspect and copy the records described in subsection (b) of this section only if:

(1) The shareholder's demand is made in good faith and for a proper purpose;

(2) The shareholder describes with reasonable particularity the shareholder's purpose and the records the shareholder desires to inspect; and

(3) The records are directly connected with the shareholder's purpose.

(d) The right of inspection granted by this section shall not be abolished or limited by a corporation's articles of incorporation or bylaws.

(e) This section shall not affect:

(1) The right of a shareholder to inspect records under § 29-305.20 or, if the shareholder is in litigation with the corporation, to the same extent as any other litigant; or

(2) The power of the Superior Court, independently of this chapter, to compel the production of corporate records for examination.

(f) For purposes of this section, the term "shareholder" includes a beneficial owner whose shares are held in a voting trust or by a nominee on the shareholder's behalf.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(34), 59 DCR 13171.)

Section references. — This section is referenced in § 29-305.20, § 29-313.03, and § 29-313.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "notice in a record" for "written notice" in (a) and (b).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Mandamus.

Where a stockholder desires on inspection of the corporate books to harass and perhaps destroy the corporation, the court will not grant

him a writ of mandamus to compel the corporation to allow the inspection. *Morgan v. Howard*, 293 F. 650, 1923 U.S. App. LEXIS 1655 (1923).

§ 29-313.03. Scope of inspection right.

(a) A shareholder's agent or attorney shall have the same inspection and copying rights as the shareholder represented.

(b) The right to copy records under § 29-313.02 includes, if reasonable, the right to receive copies by xerographic or other means, including copies through an electronic transmission if available and so requested by the shareholder.

(c) The corporation may comply at its expense with a shareholder's demand to inspect the record of shareholders under § 29-313.02(b)(3) by providing the shareholder with a list of shareholders that was compiled no earlier than the date of the shareholder's demand.

(d) The corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the shareholder. The charge shall not exceed the estimated cost of production, reproduction, or transmission of the records.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-313.04. Court-ordered inspection.

(a) If a corporation does not allow a shareholder that complies with § 29-313.02(a) to inspect and copy any records required by that subsection to be available for inspection, the Superior Court may summarily order inspection and copying of the records demanded at the corporation's expense upon application of the shareholder.

(b) If a corporation does not within a reasonable time allow a shareholder to inspect and copy any other record, the shareholder that complies with § 29-313.02(b) and (c) may apply to the Superior Court for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the Superior Court orders inspection and copying of the records demanded, it shall also order the corporation to pay the shareholder's expenses incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the shareholder to inspect the records demanded.

(d) If the Superior Court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding shareholder.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-313.05. Inspection of records by directors.

(a) A director of a corporation shall be entitled to inspect and copy the books, records and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation.

(b) The Superior Court may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the Superior Court may include provisions protecting the corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's expenses incurred in connection with the application.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-313.06. Exception to notice requirement.

(a) Whenever notice is required to be given under any provision of this chapter to any shareholder, the notice shall not be required to be given if:

(1) Notice of 2 consecutive annual meetings, and all notices of meetings during the period between such 2 consecutive annual meetings, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable; or

(2) All, but not less than 2, payments of dividends on securities during a 12-month period, or 2 consecutive payments of dividends on securities during a period of more than 12 months, have been sent to such shareholder at such shareholder's address as shown on the records of the corporation and have been returned undeliverable.

(b) If any such shareholder delivers to the corporation a written notice setting forth the shareholder's then-current address, the requirement that notice be given to the shareholder is reinstated.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

REPORTS.

§ 29-313.07. Financial statements for shareholders.

(a) A corporation shall deliver to its shareholders annual financial statements, which may be consolidated or combined statements of the corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year, an income statement for that year, and a statement of changes in shareholders' equity for the year unless that information appears elsewhere in the financial statements. If financial statements are prepared for the corporation on the basis of generally accepted accounting principles, the annual financial statements shall also be prepared on that basis.

(b) If the annual financial statements are reported upon by a public accountant, the report shall accompany them. If not, the statements shall be accompanied by a statement of the president or the person responsible for the corporation's accounting records:

(1) Stating such person's reasonable belief whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(2) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(c) A corporation shall mail the annual financial statements to each shareholder within 120 days after the close of each fiscal year. Thereafter, on written request from a shareholder that was not sent the statements, the corporation shall mail the shareholder the latest financial statements.

(d) A public corporation may fulfill its responsibilities under this section by delivering the specified financial statements or otherwise making them available in any manner permitted by the applicable rules and regulations of the United States Securities and Exchange Commission.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(35), 59 DCR 13171.)

Section references. — This section is referenced in § 29-311.10, § 29-311.14, and § 29-313.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "sent" for "mailed" in (c); and added (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter XIV. Transition Provisions.

§ 29-314.01. Application to existing domestic corporations.

Except as otherwise provided by § 29-107.01, this chapter shall apply to all domestic corporations in existence on its effective date that were incorporated under any general statute of the District providing for incorporation of corporations for profit.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(36), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “Except as otherwise provided by § 29-107.01.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-314.02. Application to registered foreign corporations.

A foreign corporation authorized to do business in the District on the effective date of this chapter shall be subject to this chapter but is not required to obtain a new certificate of registration to do business under this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(c)(37), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered” for “qualified” in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-301.03

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

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Subchapter I: General Provisions.

PART A.

GENERAL PROVISIONS.

§ 29-401.01. Short title.

This chapter may be cited as the “Nonprofit Corporation Act of 2010”.
(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Cross references. — Licenses to conduct bingo games, raffles, or Monte Carlo night parties, see § 3-1323.

Child abuse and neglect prevention children’s trust fund, see § 4-1341.06.

Financial institutions, licensing of money lenders, “community development corporation” defined, see § 26-910.

Cable television, Public Access Corporation, formation, see § 34-1229.

Museum of the City of Washington, powers, see § 39-303.

Nonprofit healthcare entities, sale, lease, or exchange of assets with for-profit entities, see § 44-603.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Corporations subject to chapter.

Pastor and current and former deacons and trustees of church could not be held accountable for alleged mismanagement of church property under District of Columbia Nonprofit Corporation Act (DCNCA), absent allegations that church was either organized under DCNCA or had elected to accept the provisions of that act. D.C. Code 1981, § 29-501 et seq. *Kelsey v. Ray*, 719 A.2d 1248, 1998 D.C. App. LEXIS 220 (1998).

Foreign, nonprofit, cooperative corporation with proportional voting did not qualify for a certificate of authority as a nonprofit cooperative, in that statute removes all cooperative organizations from purview of chapter. D.C. Code 1981, §§ 29-501 et seq., 29-504. *Watergate South, Inc. v. Duty*, 464 A.2d 141, 1983 D.C. App. LEXIS 442 (1983).

§ 29-401.02. Definitions.

For the purposes of this chapter, the term:

(1) “Board” or “board of directors” means the group of individuals responsible for the management of the activities and affairs of the nonprofit corporation, regardless of the name used to refer to the group. The term includes a designated body to the extent:

(A) The powers, functions, or authority of the board has been vested in, or are exercised by, the designated body; and

(B) The provision of this chapter in which the term appears is relevant to the discharge by the designated body of its powers, functions, or authority.

(2) “Bylaws” means the code of rules, other than the articles of incorporation, adopted for the regulation and governance of the internal affairs of the nonprofit corporation, regardless of the name or names used to refer to those rules.

(3) “Charitable corporation” means a domestic nonprofit corporation that is operated primarily or exclusively for one or more charitable purposes.

(4) “Charitable purpose” means a purpose that:

(A) Would make a corporation operated exclusively for that purpose eligible to be exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 163; 26 U.S.C. § 501(c)(3)) (“Internal Revenue Code”); or

(B) Is considered charitable under law other than this chapter or the Internal Revenue Code.

(5) “Conspicuous” means so written, displayed, or presented that a reasonable person against which it is to operate should have noticed it. Conspicuous terms include:

(A) A heading in capitals equal to or greater in size than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same or lesser size; and

(B) Language in the body of a record or display in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from surrounding text of the same size by symbols or other marks that call attention to the language[.]

(6) “Corporation”, “domestic corporation”, “domestic nonprofit corporation”, or “nonprofit corporation” means a corporation incorporated under or subject to this chapter that is not a foreign corporation.

(7) “Delegate” means a person elected or appointed to vote in a representative assembly for the election of directors or on other matters.

(8) “Designated body” means a person or group, other than a committee of the board of directors, that has been vested by the articles of incorporation or bylaws with powers that, if not vested by the articles or bylaws in that person or group, would be required by this chapter to be exercised by the board or the members.

(9) “Director” means an individual designated, elected, or appointed, by that or any other name or title, to act as a member of the board of directors, while the individual is holding that position. The term “director” shall not include a member of a designated body, as such.

(10) “Domestic unincorporated entity” means an unincorporated entity whose internal affairs are governed by the laws of the District.

(11) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(12) “Electronic transmission” or “electronically transmitted” means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.

(13) “Eligible entity” means a domestic or foreign unincorporated entity or a domestic or foreign business corporation.

(14) “Eligible interests” means interests or shares.

(15) “Employee” does not include an individual serving as an officer or director who is not otherwise employed by the corporation.

(16) “Entitled to vote” means entitled to vote on the matter under

consideration pursuant to the articles of incorporation or bylaws of the nonprofit corporation or any applicable controlling provision of law.

(17) "Foreign business corporation" means a corporation for profit incorporated under a law other than the law of the District that would be a business corporation if incorporated under the law of the District.

(18) "Foreign nonprofit corporation" means a corporation incorporated under a law other than the law of the District that would be a nonprofit corporation if incorporated under the law of the District.

(19) "Foreign unincorporated entity" means an unincorporated entity whose internal affairs are governed by an organic law of a jurisdiction other than the District.

(20) "Fundamental transaction" means an amendment of the articles of incorporation or bylaws, merger, membership exchange, sale of all or substantially all of the assets, domestication, conversion, or dissolution of a nonprofit corporation.

(21) "Interest holder liability" means personal liability for a debt, obligation, or liability of a domestic or foreign business or nonprofit corporation or unincorporated entity that is imposed on a person:

(A) Solely by reason of the person's status as a shareholder, interest holder, or member; or

(B) By the articles of incorporation, bylaws, or an organic record pursuant to a provision of the organic law authorizing the articles, bylaws, or an organic record to make one or more specified shareholders, interest holders, or members liable in their capacity as shareholders, interest holders, or members for all or specified debts, obligations, or liabilities of the entity.

(22) "Material interest" means an actual or potential benefit or detriment, other than one that would devolve on the nonprofit corporation or the members generally, that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

(23) "Material relationship" means a familial, financial, professional, employment, or other relationship that would reasonably be expected to impair the objectivity of an individual's judgment when participating in the action to be taken.

(24) "Member" means:

(A) A person that has the right, in accordance with the articles of incorporation or bylaws, and not as a delegate, to select or vote for the election of directors or delegates or to vote on any type of fundamental transaction; or

(B) A designated body to the extent:

(i) The powers, functions, or authority of the members has been vested in, or are exercised by, the designated body; and

(ii) The provision of this chapter in which the term "member" appears is relevant to the discharge by the designated body of its powers, functions, or authority.

(25) "Membership" means the rights and any obligations of a member in a nonprofit corporation.

(26) "Membership corporation" means a nonprofit corporation whose articles of incorporation or bylaws provide that it must have members.

(27) “Nonmembership corporation” means a nonprofit corporation whose articles of incorporation or bylaws do not provide that it must have members.

(28) “Nonregistered foreign corporation” means a foreign corporation that is not authorized to conduct activities in the District.

(29) “Officer” includes:

(A) An individual who is an officer as provided in § 29-406.40; and

(B) If a nonprofit corporation is in the hands of a custodian, receiver, trustee, or other court-appointed fiduciary, that fiduciary or any person appointed by that fiduciary to act as an officer for any purpose under this chapter.

(30) “Organic record” means a public organic record or the private organic rules.

(31) “Record date” means the date established under § 29-405.07 on which a nonprofit corporation determines the identity of its members and the membership interests they hold for purposes of this chapter. The determinations shall be made as of the close of business on the record date unless another time for doing so is specified when the record date is fixed.

(32) “Religious corporation” means a domestic nonprofit corporation that is a church or an integrated auxiliary of a church, as defined under the federal Internal Revenue Code or regulations promulgated thereunder, or any other such nonprofit corporation whose principal purpose is the advancement of religion.

(33) “Secretary” means the corporate officer to whom the articles of incorporation, bylaws, or board of directors has delegated responsibility under § 29-406.40(b) for custody of the minutes of the meetings of the board of directors, any designated body, committees, and the members, and for authenticating records of the nonprofit corporation.

(34) “Shareholder” means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with the corporation.

(35) “Shares” means the units into which the proprietary interests in a business corporation are divided.

(36) “Unincorporated entity” means an organization that either has a separate legal existence or has the power to acquire an estate in real property in its own name and that is not a domestic or foreign business or nonprofit corporation, an estate, a trust, a governmental subdivision, a state, the United States, or a foreign government. The term “unincorporated entity” includes a general partnership, limited liability company, limited partnership, limited cooperative association, business or statutory trust, joint stock association, and unincorporated nonprofit association.

(37) “Vote”, “voting”, or “casting a vote” includes the giving of consent in the form of a record without a meeting. The term does not include either recording the fact of abstention or failing to vote for a candidate or for approval or disapproval of a matter, whether or not the person entitled to vote characterizes such conduct as voting or casting a vote.

(38) “Voting group” means one or more classes of members that under the articles of incorporation, bylaws, or this chapter are entitled to vote and be

counted together collectively on a matter at a meeting of members. All members entitled by the articles of incorporation, bylaws, or this chapter to vote generally on the matter are for that purpose a single voting group.

(39) "Voting power" means the current power to vote in the election of directors or delegates, or to vote on approval of any type of fundamental transaction.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(2), 59 DCR 13171.)

Section references. — This section is referenced in § 29-404.01 and § 29-404.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Nonregistered" for "Nonqualified" in (28).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the "District of Columbia Official Code Title 29 Technical and Harmonizing Amend-

ments Act of 2012," was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Not for profit corporation.
Pleadings.

Not for profit corporation.

Corporation was profit-making despite being nonstock. *Fleisher Dev. Corp. v. Home Owners Warranty Corp.*, 647 F. Supp. 661, 1986 U.S. Dist. LEXIS 18545 (1986).

Allegations by member of nonprofit corporation that corporation received "allowance" from insurance company for sale of its products to members, and that such allowance actually constituted a commission used to pay extraordinary salaries to corporation's officers and directors, were insufficient to establish that corporation made false representation of or willfully omitted material fact, as required to support fraud claim; receipt of allowance did not convert corporation into a "for" profit organization, corporation disclosed to its members that it received allowance and interest from its insurance and investment programs and that income was used for "general purposes of corporation and its members," and member did not

allege that salaries exceeded legal limitations. *Schiff v. AARP*, 697 A.2d 1193, 1997 D.C. App. LEXIS 110 (1997).

Pleadings.

In suit against church, church officials, and pastor for failing to provide proper notice of church business meeting at which pastor was elected, plaintiff's allegations, which did not clearly establish that he was a member of the church, or that he was entitled, under the church's articles of incorporation or by-laws, to notice of or the right to participate in the election of the pastor, did not state a claim on which relief could be granted. D.C. Code 1981, § 29-515; Civil Rule 54(b). *West v. Morris*, 711 A.2d 1269, 1998 D.C. App. LEXIS 107 (1998).

Where plaintiff neither asserted bona fide membership in defendant church, nor introduced any evidence, such as church articles of incorporation, by-laws, or rules and regulations, to define or establish membership criteria, plaintiff failed to allege directly any basis for a finding of standing to maintain a cause of action. *West v. Morris*, 711 A.2d 1269, 1998 D.C. App. LEXIS 107 (1998).

§ 29-401.03. Notice.

(a) Unless the articles of incorporation or bylaws provide otherwise, notice under this chapter shall be in the form of a record.

(b) Notice may be communicated in person or by delivery. If these forms of communication are impracticable, notice may be communicated by a newspa-

per of general circulation in the area where published, or by radio, television, or other form of public broadcast communication.

(c) Notice in the form of a record by a membership corporation to a member shall be effective:

(1) Upon deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed to the member's address shown in the corporation's current record of members; or

(2) When given if the notice is delivered in any other manner that the member has authorized.

(d) Notice to a domestic or registered foreign nonprofit corporation may be delivered to its registered agent or to the corporation or its secretary at its principal office shown in its most recent biennial report or, in the case of a foreign corporation that has not yet delivered a biennial report, in its application for a certificate of registration.

(e) Except as otherwise provided in subsection (c) of this section, notice shall be effective at the earliest of the following:

(1) When received;

(2) When left at the recipient's residence or usual place of business;

(3) Five days after its deposit in the United States mail or with a commercial delivery service, if the postage or delivery charge is paid and the notice is correctly addressed; or

(4) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, or by commercial delivery service.

(f) Oral notice shall be effective when communicated, if communicated in a comprehensible manner.

(g) If this chapter prescribes notice requirements for particular circumstances, those requirements shall govern. If bylaws prescribe notice requirements, not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

(h) With respect to electronic communications:

(1) Unless otherwise provided in the articles of incorporation or bylaws, or otherwise agreed between the sender and the recipient, an electronic communication is received when:

(A) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(B) It is in a form capable of being processed by that system.

(2) An electronic communication is received under paragraph (1) of this subsection even if no individual is aware of its receipt.

(3) Receipt of an electronic acknowledgment from an information processing system described in paragraph (1) of this subsection establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(i) An authorization by a member of delivery of notices or communications by email or similar electronic means may be revoked by the member by notice

to the nonprofit corporation in the form of a record. The authorization shall be deemed revoked if:

(A) The corporation is unable to deliver 2 consecutive notices or other communications to the member in the manner authorized; and

(B) The inability becomes known to the secretary or other person responsible for giving the notice or other communication, but the failure to treat the inability as a revocation shall not invalidate any meeting or other action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(3), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered” for “qualified” in (d); redesignated former (g) and (h) as (h) and (i), respectively; and redesignated the former second subsection (f) as (g).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-401.04. Reference to extrinsic facts in plans or filed documents.

(a) For the purposes of this subsection, the term:

(1) “Filed record” means a record delivered to the Mayor for filing under any provision of this chapter except § 29-102.11.

(2) “Plan” means a plan of domestication, business conversion, entity conversion, merger or membership exchange.

(b) Whenever a provision of this chapter permits any of the terms of a plan or a filed record to be dependent on facts objectively ascertainable outside the plan or filed record, the following rules apply:

(1) The manner in which the facts will operate upon the terms of the plan or filed record shall be set forth in the plan or filed record.

(2) The facts may include:

(A) Any of the following that is available in a nationally recognized news or information medium either in print or electronically:

- (i) Statistical or market indices;
- (ii) Market prices of any security or group of securities;
- (iii) Interest rates;
- (iv) Currency exchange rates; or
- (v) Similar economic or financial data;

(B) A determination or action by any person or body, including the corporation or any other party to a plan or filed record; or

(C) The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(4), 59 DCR 13171.)

Section references. — This section is referenced in § 29-402.02, § 29-407.02, § 29-408.06, § 29-409.02, § 29-409.03, and § 29-409.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (a)(1).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-401.05. Restrictions and required approvals.

(a) If a domestic or foreign nonprofit corporation or eligible entity may not be a party to a merger or sale of its assets without the approval of the Attorney General for the District of Columbia, the Mayor (or as may be formerly referred to as the Commissioner of the District of Columbia), the Department of Insurance, Securities, and Banking or the Public Service Commission, the corporation or eligible entity shall not be a party to a transaction under Chapter 2 of this title without the prior approval of that officer or agency.

(b) Property held in trust by an entity or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by any transaction under Chapter 2 of this title unless the entity obtains an appropriate order of the Superior Court specifying the disposition of the property to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(c) Unless an entity that is a party to a transaction under Chapter 2 of this title obtains an appropriate order of Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, the transaction shall not affect:

(1) Any restriction imposed upon the entity by its organic records that may not be amended by its board of directors, governors, members, or interest holders or by a designated body;

(2) Any restriction imposed upon property held by the entity by virtue of any trust under which it holds that property; or

(3) The existing rights of persons other than members, shareholders, or interest holders of the entity.

(d) A person that is a member, interest holder, or otherwise affiliated with a charitable corporation or an unincorporated entity with a charitable purpose shall not receive a direct or indirect financial benefit in connection with a transaction under Chapter 2 of this title to which the charitable corporation or unincorporated entity is a party unless the person is itself a charitable corporation or unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(e) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made before or after a transaction under Chapter 2 of this title to or for the entity that is the subject of the transaction, shall inure to the entity as it continues in existence after the transaction, subject to the express terms of the will or other instrument.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(5), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Chapter 2 of this title” for “this chapter” in (a) through (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

PART B.

REVIEW OF CONTESTED CORPORATE ACTION.

§ 29-401.20. Definition.

For the purposes of this part, the term “corporate action” means:

(1) The election, appointment, designation, or other selection and the suspension, removal, or expulsion of members, delegates, directors, members of a designated body, or officers of a nonprofit corporation; or

(2) The taking of any action on any matter that is required under this chapter or under any other provision of law to be, or which under the articles of incorporation or bylaws may be, submitted for action to the members, delegates, directors, members of a designated body, or officers of a nonprofit corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-401.21. Proceedings prior to corporate action.

(a) If, under applicable law or the articles of incorporation or bylaws of a nonprofit corporation, there has been a failure to hold a meeting to take corporate action and the failure has continued for 30 days after the date designated or appropriate therefor, the Superior Court may summarily order a meeting to be held upon the application of any person entitled, either alone or in conjunction with other persons similarly seeking relief under this section, to call a meeting to consider the corporate action in issue, or the Attorney General for the District of Columbia in the case of a charitable corporation.

(b) The Superior Court may determine the right to vote at the meeting of persons claiming that right, may appoint an individual to hold the meeting under such orders and powers as the Superior Court may consider proper, and may take such action as may be required to give due notice of the meeting and convene and conduct the meeting in the interests of justice.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.22.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-

101.01.

§ 29-401.22. Review of contested corporate action.

(a) Upon petition of a person whose status as, or whose rights or duties as, a member, delegate, director, member of a designated body, or officer of a corporation are or may be affected by any corporate action, the Superior Court may hear and determine the validity of the corporate action.

(b) The Superior Court may make such orders in any such case as may be just and proper, with power to enforce the production of any books, papers and records of the corporation and other evidence that may relate to the issue. The Superior Court shall provide for notice of the pendency of the proceedings under this section to all persons affected thereby. If it is determined that no valid corporate action has been taken, the Superior Court may order a meeting to be held in accordance with § 29-401.21.

(c) Subsection (a) of this section shall not apply if a nonprofit corporation has provided in its articles of incorporation or bylaws for a means of resolving a challenge to a corporate action, but the Superior Court may enforce the articles or bylaws if appropriate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-401.23. Notice to Attorney General.

The plaintiff in a proceeding under this part shall notify the Attorney General for the District of Columbia within 10 days after commencing the proceeding if it involves a charitable corporation. Notice to the Attorney General under this section shall not stay or otherwise affect the proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.**RELIGIOUS CORPORATIONS.****§ 29-401.40. Subordination to canon law or other religious doctrine.**

If religious doctrine or canon law governing the affairs of a religious corporation is inconsistent with this chapter on the same subject, the religious doctrine or canon law shall control to the extent required by the Constitution of the United States.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Construction with Constitution and other law.
Membership and standing.
Religious societies.

Construction with Constitution and other law.

Except for contractual disputes, the prohibition of judicial encroachment into church decisions includes church decisions concerning the employment of ministers because selection and termination of clergy is a core matter of ecclesiastical self-governance not subject to interference by a state. *Heard v. Johnson*, 810 A.2d 871, 2002 D.C. App. LEXIS 656 (2002).

Even though the selection or ouster of a minister is a purely ecclesiastical decision taken in accord with the religious convictions of the church, it is not totally free from legislative restrictions. *Heard v. Johnson*, 810 A.2d 871, 2002 D.C. App. LEXIS 656 (2002).

State restriction on religious activity is allowed when the activity poses some substantial threat to public safety, peace or order. *Heard v. Johnson*, 810 A.2d 871, 2002 D.C. App. LEXIS 656 (2002).

Church that was organized under the Religious Societies statute was not bound to follow the District of Columbia Nonprofit Corporation Act (DCNCA) whenever its organizing statute differed from the DCNCA; statute providing that acts relating to the organization of a religious denomination would not remain in effect insofar as they were inconsistent with or repealed by the District of Columbia Code did not have any effect on the Religious Societies statute, which did not predate the Code. D.C. Code 1981, §§ 29-503(c), 29-901 et seq., 49-303. *Kelsey v. Ray*, 723 A.2d 1215, 1999 D.C. App. LEXIS 23 (1999).

Pastor and current and former deacons and trustees of church could not be held accountable for alleged mismanagement of church property under District of Columbia Nonprofit Corporation Act (DCNCA), absent allegations that church was either organized under DCNCA or had elected to accept the provisions of that act. D.C. Code 1981, § 29-501 et seq. *Kelsey v. Ray*, 719 A.2d 1248, 1998 D.C. App. LEXIS 220 (1998).

First Amendment forbids civil court from becoming entangled in matters of highly religious nature, issues at core of internal church

discipline, faith and church organization; on the other hand, in limited circumstances, church is not above the law and courts accordingly apply neutral principles of law, such as rules of statutory construction, to resolve church property disputes by reference to applicable civil statutes. U.S. Const. Amend. 1. *Williams v. Board of Trustees of Mt. Jezreel Baptist Church*, 589 A.2d 901, 1991 D.C. App. LEXIS 86 (1991), writ of certiorari denied by 502 U.S. 865, 112 S. Ct. 190, 116 L. Ed. 2d 151, 1991 U.S. LEXIS 4693, 60 U.S.L.W. 3262 (1991).

Membership and standing.

Generally, membership of religious society is determined by reference to statutes governing those bodies and rules, constitution, or by-laws of the society. *Williams v. Board of Trustees of Mt. Jezreel Baptist Church*, 589 A.2d 901, 1991 D.C. App. LEXIS 86 (1991), writ of certiorari denied by 502 U.S. 865, 112 S. Ct. 190, 116 L. Ed. 2d 151, 1991 U.S. LEXIS 4693, 60 U.S.L.W. 3262 (1991).

Regular church attendance and financial contributions did not comprise sufficient basis for granting attendees and contributors "special interest" in enforcement of charitable trust and did not provide them with standing to bring action against church board of trustees and pastor to prevent sale of church property. *Williams v. Board of Trustees of Mt. Jezreel Baptist Church*, 589 A.2d 901, 1991 D.C. App. LEXIS 86 (1991), writ of certiorari denied by 502 U.S. 865, 112 S. Ct. 190, 116 L. Ed. 2d 151, 1991 U.S. LEXIS 4693, 60 U.S.L.W. 3262 (1991).

Church attendees and contributors, who had been expelled from church membership, were not members of church's corporate body and did not have standing to bring action against church board of trustees and pastor to prevent sale of church property. *Williams v. Board of Trustees of Mt. Jezreel Baptist Church*, 589 A.2d 901, 1991 D.C. App. LEXIS 86 (1991), writ of certiorari denied by 502 U.S. 865, 112 S. Ct. 190, 116 L. Ed. 2d 151, 1991 U.S. LEXIS 4693, 60 U.S.L.W. 3262 (1991).

Religious societies.

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gious denomination would not remain in effect insofar as they were inconsistent with or repealed by the District of Columbia Code did not have any effect on the Religious Societies statute, which did not predate the Code. D.C. Code 1981, §§ 29-503(c), 29-901 et seq., 49-303. *Kelsey v. Ray*, 723 A.2d 1215, 1999 D.C. App. LEXIS 23 (1999).

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trustees of church could not be held accountable for alleged mismanagement of church property under District of Columbia Nonprofit Corporation Act (DCNCA), absent allegations that church was either organized under DCNCA or had elected to accept the provisions of that act. D.C. Code 1981, § 29-501 et seq. *Kelsey v. Ray*, 719 A.2d 1248, 1998 D.C. App. LEXIS 220 (1998).

PART D.

MEMBER-GOVERNED CORPORATIONS.

§ 29-401.50. Member-governed corporations.

(a) For the purposes of this section, the term “member-governed corporation” means a membership corporation incorporated under or subject to this chapter which:

(1) Provides in its articles of incorporation or bylaws that it is a member-governed corporation; or:

(2) Meets the following conditions:

(A) It holds regular meetings not less frequently than annually;

(B) Its activities and affairs are governed by its members; and

(C) The board of directors, if any, has only those powers delegated by the articles of incorporation, bylaws, or members.

(b) This section shall apply only to member-governed corporations and shall not be construed to affect in any way the rights, duties, obligations, or other matters pertaining to other types of nonprofit corporations formed under or subject to this chapter or other entities formed under or subject to this title.

(c) Except as otherwise provided in the articles of incorporation or bylaws, the following rules shall apply to a member-governed corporation:

(1) A member shall vote only in person and not by proxy.

(2) A voting agreement shall not be enforceable.

(3) A fundamental transaction may be approved by a $\frac{2}{3}$ vote of the members of the corporation without the approval of the board of directors, if any.

(4) The members may set a record date in the circumstances described in § 29-405.07(c).

(5) The polls may be closed by a $\frac{2}{3}$ vote of the members present and voting in the circumstances described in § 29-405.08(d).

(6) At a meeting of a member-governed corporation, the members present and voting are the ultimate judge of the validity of ballots under §§ 29-405.23(c) and 29-405.28.

(7) The qualifications of a director under § 29-406.08(c)(5) are determined by the members.

(d) The articles of incorporation or bylaws of a member-governed corporation may contain any of the following provisions:

(1) Providing that a meeting of the members under § 29-405.01 may be held biennially, and, if the articles of incorporation or bylaws establish an assembly of delegates, providing that instead of meetings of members the assembly of delegates shall meet with a regularity the articles of incorporation or bylaws specify, not less frequently than quinquennially;

(2) Establishing the number of mail ballots that constitute a quorum under § 29-405.09;

(3) Stating the circumstances under which a member who was present at a meeting but who leaves the meeting is or is not deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting under § 29-405.24(b);

(4) Permitting cumulative voting for directors;

(5) Providing that the maximum term of a director under § 29-406.05 may be up to six years;

(6) Providing that the resignation of a director under § 29-406.07 is not effective until approved by the members;

(7) Establishing the quorum required for a meeting of the board of directors under § 29-406.24(b);

(8) Providing that if a quorum is present when a vote is taken, the affirmative vote of a majority of the votes cast, rather than a majority of those present, is the act of the board of directors unless a greater vote is required by the articles of incorporation and bylaws;

(9) Stating the circumstances under which a director present at a meeting is not considered to have assented to a corporate action under § 29-406.24(d);

(10) Creating and defining the membership and powers of committees under § 29-406.25(b), (e)(2), and (h);

(11) Providing that the same person may not simultaneously hold more than one office in a member-governed corporation; and

(12) Providing that the resignation of an officer under § 29-406.43 is not effective until approved by the members.

(e) If a member-governed corporation adopts a specified generally accepted parliamentary authority in its bylaws, rules in the specified parliamentary authority and in special rules of order adopted as provided in the parliamentary authority shall be treated as provisions of the bylaws for the purposes of this chapter, except to the extent such rules are inconsistent with explicit provisions of the articles of incorporation or the bylaws. The rules of any such adopted parliamentary authority shall be presumed to be fair to the members pursuant to § 29-405.08(c).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(6), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “meetings” for “meeting” in (a)(2)(A); and substituted “an officer” for “a officer” in (d)(12).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

PART E.

ATTORNEY GENERAL.

§ 29-401.60. Notice to Attorney General.

(a) The Attorney General for the District of Columbia shall be given notice of the commencement of any proceeding that this chapter authorizes the Attorney General to bring but that has been commenced by another person.

(b) Whenever any provision of this chapter requires that notice be given to the Attorney General for the District of Columbia before or after commencing a proceeding or permits the Attorney General to commence a proceeding:

(1) If no proceeding has been commenced, the Attorney General may take appropriate action seeking injunctive relief; and

(2) If a proceeding has been commenced by a person other than the Attorney General, the Attorney General, as of right, may intervene in the proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

*Subchapter II. Incorporation.***§ 29-402.01. Incorporators.**

One or more persons may act as the incorporators of a nonprofit corporation by delivering articles of incorporation to the Mayor for filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-402.02. Articles of incorporation.

(a) The articles of incorporation shall set forth:

(1) A name for the nonprofit corporation that satisfies the requirements of § 29-103.01;

(2) The information required by § 29-104.04;

(3) That the corporation is incorporated as a nonprofit corporation under this chapter;

(4) The name and street address of each incorporator; and

(5) Whether the corporation will have members.

(b) The articles of incorporation may set forth:

(1) The names of the individuals who are to serve as the initial directors;

(2) Provisions creating one or more designated bodies;

- (3) The names of the initial members of a designated body;
- (4) The names of the initial members, if any;
- (5) Provisions not inconsistent with law regarding:

(A) The purpose or purposes for which the nonprofit corporation is organized;

(B) Managing the business and regulating the affairs of the corporation;

(C) Defining, limiting, and regulating the powers of the corporation, its board of directors, any designated body, and the members, if any;

(D) The characteristics, qualifications, rights, limitations, and obligations attaching to each or any class of members; or

(E) The distribution of assets on dissolution;

(6) Any provision that this chapter requires or permits to be set forth in the articles or bylaws;

(7) A provision permitting or making obligatory indemnification of a director for liability, as defined in § 29-406.50, to any person for any action taken, or any failure to take any action, as a director, except liability for:

(A) Receipt of a financial benefit to which the director is not entitled;

(B) An intentional infliction of harm;

(C) A violation of § 29-406.33; or

(D) An intentional violation of criminal law; and

(8) Provisions required if the corporation is to be exempt from taxation under federal, state, or local law.

(c) The liability of a director of a nonprofit corporation that is not a charitable corporation may be eliminated or limited by a provision of the articles of incorporation that a director is not liable to the corporation or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for:

(1) The amount of a financial benefit received by the director to which the director is not entitled;

(2) An intentional infliction of harm;

(3) A violation of § 29-406.33; or

(4) An intentional violation of criminal law.

(d) The articles of incorporation need not set forth any of the corporate powers enumerated in this chapter.

(e) Provisions of the articles of incorporation may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with § 29-401.04.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-101.06, § 29-406.12, § 29-406.31, § 29-406.51, § 29-406.53, and § 29-407.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-402.03. Incorporation.

(a) Unless a delayed effective date is specified, the corporate existence begins when the articles of incorporation are filed.

(b) The filing of the articles of incorporation by the Mayor is conclusive proof that the incorporators satisfied all conditions precedent to incorporation except in a proceeding by the District to cancel or revoke the incorporation or involuntarily dissolve the nonprofit corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(7), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “District” for “state” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-402.04. Liability for preincorporation transactions.

All persons purporting to act as or on behalf of a nonprofit corporation, knowing there was no incorporation under this chapter, shall be jointly and severally liable for all liabilities created while so acting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

Hotel failed to state breach of contract claim against individuals for hotel and conference debts incurred by unincorporated entity, assuming named individuals were acting as promoters of entity, where hotel failed to allege that person who signed preincorporation contract was also promoter or even agent of entity. Fed.R.Civ.Proc. Rule 12(b)(6), 28 U.S.C.A.; D.C. Code 1981, § 29-599.2. *Shoreham Hotel Ltd. Partnership v. Wilder*, 866 F. Supp. 1, 1994 U.S. Dist. LEXIS 15277 (1994).

Hotel did not have valid claim for breach of contract against persons associated with promoting or organizing unincorporated entity that incurred bill for hotel and conference services, where it did not allege that those persons purported to act as corporation or represented to others that they were acting as corporation. *Shoreham Hotel Ltd. Partnership v. Wilder*, 866 F. Supp. 1, 1994 U.S. Dist. LEXIS 15277 (1994).

§ 29-402.05. Organization of corporation.

(a) After incorporation:

(1) If initial directors or members of a designated body are named in the articles of incorporation, those persons shall hold an organizational meeting, as appropriate, at the call of a majority of them, to complete the organization of the nonprofit corporation by electing directors, when the organization of the corporation is to be completed by a designated body, appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

(2) If initial directors or members of a designated body are not named in the articles, the incorporator or incorporators shall hold an organizational meeting at the call of a majority of the incorporators to elect:

(A) Directors and complete the organization of the nonprofit corporation; or

(B) A board of directors who shall complete the organization of the corporation.

(b) Action required or permitted by this chapter to be taken by incorporators at an organizational meeting may be taken without a meeting if the action taken is evidenced by one or more consents in the form of a record describing the action taken and signed by each incorporator.

(c) An organizational meeting may be held in or outside of the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-402.06. Bylaws.

(a) The incorporators or the board of directors of a nonprofit corporation may adopt initial bylaws for the corporation.

(b) The bylaws of a nonprofit corporation may contain any provision for managing the activities and regulating the affairs of the corporation that is not inconsistent with law or the articles of incorporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter III. Purposes and Powers.

§ 29-403.01. Purposes.

(a) A nonprofit corporation may be formed for any lawful nonprofit purpose unless a more limited purpose is set forth in the articles of incorporation.

(b) A corporation engaging in an activity that is subject to regulation under another statute of the District may incorporate under this chapter only if incorporating under this chapter is not prohibited by the other statute. The corporation is subject to all the limitations of the other statute.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-403.02. General powers.

Unless its articles of incorporation provide otherwise, every nonprofit corporation shall have perpetual duration and succession in its corporate name

and has the same powers as an individual to do all things necessary or convenient to carry out its affairs including the power to:

- (1) Sue and be sued, complain, and defend in its corporate name;
- (2) Have a corporate seal, which may be altered at will, and to use it, or a facsimile of it, by impressing or affixing it or in any other manner reproducing it;
- (3) Make and amend bylaws, not inconsistent with its articles of incorporation or with the laws of the District, for managing and regulating the affairs of the corporation;
- (4) Purchase, receive, lease, or otherwise acquire, and own, hold, improve, use, and otherwise deal with, property, or any legal or equitable interest in property, wherever located;
- (5) Sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of all or any part of its property;
- (6) Purchase, receive, subscribe for, or otherwise acquire, own, hold, vote, use, sell, mortgage, lend, pledge, or otherwise dispose of, and deal in and with shares or other interests in, or obligations of, any other entity;
- (7) Make contracts and guarantees, incur liabilities, borrow money, issue notes, bonds, and other obligations, and secure any of its obligations by mortgage or pledge of any of its property or income;
- (8) Lend money, invest and reinvest its funds, and receive and hold real and personal property as security for repayment, except as limited by § 29-406.32;
- (9) Be a promoter, partner, member, associate, or manager of any partnership, joint venture, trust, or other entity;
- (10) Conduct its activities, locate offices, and exercise the powers granted by this chapter within or without the District;
- (11) Elect directors and appoint officers, employees, and agents of the corporation, define their duties, fix their compensation, and lend them money and credit, except as limited by § 29-406.32;
- (12) Pay pensions and establish pension plans, pension trusts, and benefit or incentive plans for any or all of its current or former directors, officers, employees, and agents;
- (13) Make donations for charitable purposes;
- (14) Impose dues, assessments, admission, and transfer fees on its members;
- (15) Establish conditions for admission of members, admit members, and issue memberships;
- (16) Carry on a business; and
- (17) Make payments or donations, or do any other act, not inconsistent with law, that furthers the purposes, activities, and affairs of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(8), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “real or personal” following “with,” in (4).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Construction and application.

Congress did not waive sovereign immunity of agency or instrumentality that it created to serve role of promoting and of conducting relations between United States and people of Taiwan, though Congress established this entity as nonprofit corporation generally subject to District of Columbia law, and though District of Columbia law provided that nonprofit corporations shall have power to sue and be sued; in

specifying that entity was subject to District of Columbia law only to extent that such law did not "impede or otherwise interfere with" entity's performance, Congress foreclosed any waiver of sovereign immunity and preempted District of Columbia's sued-and-be-sued provision as it applied to entity. *United States ex rel. Wood v. Am. Inst. in Taiwan*, 286 F.3d 526, 2002 U.S. App. LEXIS 6991 (C.A.D.C. 2002).

§ 29-403.03. Emergency powers.

(a) If a nonprofit corporation authorizes the exercise of emergency powers in its articles of incorporation or bylaws, in the event of an emergency, the board of directors may:

(1) Modify lines of succession to accommodate the incapacity of any director, officer, employee, or agent; and

(2) Relocate the principal office, designate alternative principal offices or regional offices, or authorize the officers to do so.

(b) During an emergency, unless the articles of incorporation or bylaws provide otherwise:

(1) Notice of a meeting of the board of directors need be given only to those directors it is practicable to reach and may be given in any practicable manner; and

(2) One or more officers of the nonprofit corporation present at a meeting of the board of directors may be deemed to be directors for the meeting, in order of rank and within the same rank in order of seniority.

(c) Corporate action taken in good faith during an emergency to further the ordinary affairs of the nonprofit corporation:

(1) Binds the corporation; and

(2) Shall not be used to impose liability on a director, officer, employee, or agent.

(d) An emergency exists for purposes of this section if a quorum of the directors cannot readily be assembled because of some catastrophic event.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-403.04. Ultra vires.

(a) Except as otherwise provided in subsection (b) of this section, the validity of corporate action shall not be challenged on the ground that the nonprofit corporation lacks or lacked power to act.

(b) The power of a nonprofit corporation to act may be challenged in a proceeding by:

(1) A member, director, or member of a designated body against the corporation to enjoin the act;

(2) The corporation, directly, derivatively, or through a receiver, trustee, or other legal representative, against an incumbent or former director or member of a designated body, officer, employee, or agent of the corporation; or

(3) The Attorney General for the District of Columbia under § 29-412.20.

(c) In a derivative proceeding under subchapter XI of this chapter by a member, director, or member of a designated body under subsection (b)(1) of this section to enjoin an unauthorized corporate act, the Superior Court may enjoin or set aside the act, if equitable and if all affected persons are parties to the proceeding, and may award damages for loss, other than anticipated profits, suffered by the corporation or another party because of enjoining the unauthorized act.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Parties.

Real property.

Parties.

Plaintiffs did not have standing to bring a derivative action on nonprofit corporation's behalf against individuals who were corporation's directors and allegedly engaged in ultra vires acts, even though the District of Columbia Nonprofit Corporation Act provided that a challenge to a corporation's power to act could be brought the corporation through a legal representative; plaintiffs were not current officers or directors of corporation, even assuming that "legal representative" could be an officer or a director, and were not members of corporation, which was formed as a non-member corporation, and it did not appear that plaintiffs complied with the procedural requirements for asserting a derivative claim. The Federation for World Peace and Unification International, et

al. v. Moon, et al., 140 WLR 1605 (Super. Ct. 2012).

Real property.

Deed conveying property to an incipient "corporation" that has not yet been incorporated, passes title to corporation as of time of incorporation. Community Credit Union Services, Inc. v. Federal Express Services Corp., 534 A.2d 331, 1987 D.C. App. LEXIS 488 (1987).

Creditor's lien on real estate of debtor was valid and enforceable, even though debtor had transferred property to corporation before lien was filed, where purchaser of corporation was not valid corporation at time of transfer; property's transfer was effective upon reinstatement of purchaser's legal existence, and since land was owned by debtor until that time, creditor's lien was effective. Community Credit Union Services, Inc. v. Federal Express Services Corp., 534 A.2d 331, 1987 D.C. App. LEXIS 488 (1987).

Subchapter IV. Memberships and Financial Provisions.

PART A.

ADMISSION OF MEMBERS.

§ 29-404.01. No requirement of members; other persons designated by articles of incorporation or by-laws.

(a) A nonprofit corporation shall not be required to have members.

(b) If the articles of incorporation or bylaws of a nonprofit corporation do not provide that it must have members, or if a corporation has in fact no members entitled to vote on a matter, any provision of this chapter or any other provision of law requiring notice to, the presence of, or the vote, consent, or other action by members of the corporation in connection with the matter shall be satisfied by notice to, the presence of, or the vote, consent, or other action by the board of directors or a designated body of the corporation.

(c) The articles of incorporation or bylaws of a nonprofit corporation may designate a person as a member who is not within the definition of “member” under § 29-401.02(24). Such a person, regardless of designation, shall not be deemed a member for purposes of this chapter but nevertheless shall have those rights and obligations set forth in the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-404.02. Admission.

(a) The articles of incorporation or bylaws of a membership corporation may establish criteria or procedures for admission of members.

(b) A person shall not be admitted as a member without the person’s consent.

(c) If a membership corporation provides certificates of membership to the members, the certificates shall not be registered and shall not be transferable except as otherwise provided in the articles of incorporation or bylaws.

(d) A person shall not be a member of a nonprofit corporation unless the person meets the definition of a “member” in § 29-401.02, regardless of whether the corporation refers to the person as a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(9), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “transferable” for “able” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-404.03. Consideration.

Except as otherwise provided in its articles of incorporation or bylaws, a membership corporation may admit members for no consideration or for such consideration as is determined by the board of directors. The consideration may take any form, including promissory notes, intangible property, or past or future services. Payment of the consideration may be made at such times and upon such terms as are set forth in or authorized by the articles of incorporation, bylaws, or a resolution of the board.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

RIGHTS AND OBLIGATIONS OF MEMBERS.

§ 29-404.10. Differences in rights and obligations of members.

Except as otherwise provided in the articles of incorporation or bylaws, each member of a membership corporation shall have the same rights and obligations as every other member with respect to voting, dissolution, membership transfer, and other matters.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.22.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-404.11. Transfers.

(a) Except as otherwise provided in the articles of incorporation or bylaws, a member of a membership corporation shall not transfer a membership or any right arising therefrom.

(b) If the right to transfer a membership has been provided, a restriction on that right shall not be binding with respect to a member holding a membership issued before the adoption of the restriction unless the restriction is approved by the affected member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-404.12. Member's liability to third parties.

A member of a membership corporation shall not be as such, personally liable for the acts, debts, liabilities, or obligations of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-404.14 and § 29-809.09. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-404.13. Member's liability for dues, assessments, and fees.

(a) A membership corporation may levy dues, assessments, and fees on its members to the extent authorized in the articles of incorporation or bylaws. Dues, assessments, and fees may be imposed on members of the same class either alike or in different amounts or proportions, and may be imposed on a different basis on different classes of members. Members of a class may be made exempt from dues, assessments, and fees to the extent provided in the articles or bylaws.

(b) The amount and method of collection of dues, assessments, and fees may be fixed in the articles of incorporation or bylaws, or the articles or bylaws may authorize the board of directors or members to fix the amount and method of collection.

(c) The articles of incorporation or bylaws may provide reasonable means, such as termination and reinstatement of membership, to enforce the collection of dues, assessments, and fees.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-404.14. Creditor's action against member.

(a) A proceeding shall not be brought by a creditor of a membership corporation to reach the liability, if any, of a member to the corporation unless final judgment has been rendered in favor of the creditor against the corporation and execution has been returned unsatisfied in whole or in part or unless the proceeding would be useless. In this case, a member remains immune from liability for debts, obligations, and other liabilities of the corporation under § 29-404.12 and shall be liable only to the extent that the member's failure to pay amounts owed to the corporation has resulted in damages to the creditor.

(b) All creditors of a membership corporation, with or without reducing their claims to judgment, may intervene in any creditor's proceeding brought

under subsection (a) of this section to reach and apply unpaid amounts due the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.

RESIGNATION AND TERMINATION.

§ 29-404.20. Resignation.

(a) A member of a membership corporation may resign at any time.

(b) The resignation of a member shall not relieve the member from any obligations incurred or commitments made prior to resignation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-404.21. Termination and suspension.

(a) A membership in a membership corporation may be terminated or suspended for the reasons and in the manner provided in the articles of incorporation or bylaws.

(b) A proceeding challenging a termination or suspension for any reason shall be commenced within one year after the effective date of the termination or suspension.

(c) The termination or suspension of a member shall not relieve the member from any obligations incurred or commitments made prior to the termination or suspension.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-404.22. Purchase of memberships.

Except as otherwise provided in the articles of incorporation or bylaws, a membership corporation that is not a charitable corporation shall not purchase any of its memberships or any right arising therefrom.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-404.40, § 29-404.41, and § 29-408.22.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART D.

DELEGATES.

§ 29-404.30. Delegates.

(a) A membership corporation may provide in its articles of incorporation or bylaws for delegates.

(b) The articles of incorporation or bylaws may set forth provisions relating to:

(1) The characteristics, qualifications, rights, limitations, and obligations of delegates including their selection and removal;

(2) Calling, noticing, holding, and conducting meetings of delegates; and

(3) Carrying on corporate activities during and between meetings of delegates.

(c) An assembly or other organized group of delegates constitutes a designated body if it has been vested with powers of the board of directors under the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART E.

FINANCIAL PROVISIONS.

§ 29-404.40. Distributions prohibited.

(a) Except as permitted under § 29-404.22 or § 29-404.41, a nonprofit corporation shall not pay dividends or make distributions of any part of its assets, income, or profits to its members, directors, delegates, members of a designated body, or officers.

(b) This section shall not apply to a contract or transaction authorized pursuant to § 29-406.70.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-404.41. Compensation and other permitted payments.

(a) A nonprofit corporation may pay reasonable compensation or reimburse reasonable expenses to members, directors, delegates, members of a designated body, or officers for services rendered.

(b) A nonprofit corporation may confer benefits upon or make contributions to members or nonmembers in conformity with its purposes, repurchase its memberships only to the extent provided in § 29-404.22, or repay capital contributions, except when:

(1) The corporation is currently insolvent or would thereby be made insolvent or rendered unable to carry on its purposes; or

(2) The fair value of the assets of the corporation remaining after the conferring of benefits, contribution, repurchase, or repayment would be insufficient to meet its liabilities.

(c) A nonprofit corporation may make distributions of cash or property to members upon dissolution or final liquidation only as permitted by this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-404.40. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-404.42. Debt and security interests.

(a) A nonprofit corporation shall not issue bonds or other evidences of indebtedness except for money or other property, tangible or intangible, or labor or services actually received by or performed for the corporation or for its benefit or in its formation or reorganization, or a combination thereof. In the absence of fraud, the judgment of the board of directors as to the value of the consideration received by the corporation shall be conclusive.

(b) The board of directors may authorize a mortgage or pledge of, or the creation of a security interest in, all or any part of the property of the nonprofit corporation, or any interest therein. Unless otherwise restricted in the articles of incorporation or bylaws, the vote or consent of the members shall not be required to make effective such action by the board.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-404.43. Private foundations.

(a) Except as otherwise provided in subsection (b) of this section, a nonprofit corporation that is a private foundation as defined in section 509(a) of the Internal Revenue Code of 1986, approved December 30, 1969 (83 Stat. 496; 26 U.S.C. § 509(a)) (“Internal Revenue Code”), shall:

(1) Distribute such amounts for each taxable year at such time and in such manner as not to subject the corporation to tax under section 4942 of the Internal Revenue Code;

(2) Not engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code;

(3) Not retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code;

(4) Not make any investments in such manner as to subject the corporation to tax under section 4944 of the Internal Revenue Code; and

(5) Not make any taxable expenditures as defined in section 4945(d) of the Internal Revenue Code.

(b) Subsection (a) of this section shall not apply to a nonprofit corporation incorporated before January 1, 1970 that has been properly relieved from the requirements of section 508(e)(1) of the Internal Revenue Code by a timely judicial proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(10), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “1986” for “2986” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Self-dealing.

Since church was not a “private foundation,” as defined in Internal Revenue Code, statute incorporating tax rules into governing documents of private foundations to protect their tax exempt status did not apply to church, so as

to amend its governing instrument to prohibit acts of self-dealing. 26 U.S.C. §§ 170(b)(1)(A), 508, 509(a), 4941; D.C. Code 1981, § 29-531. *Kelsey v. Ray*, 723 A.2d 1215, 1999 D.C. App. LEXIS 23 (1999).

Subchapter V. Member Meetings.

PART A.

PROCEDURES.

§ 29-405.01. Annual and regular meetings.

(a) A membership corporation shall hold a meeting of members annually at a time stated in or fixed in accordance with the articles of incorporation or bylaws.

(b) A membership corporation may hold regular meetings on a regional or other basis at times stated in or fixed in accordance with the articles of incorporation or bylaws.

(c) Except as otherwise provided in subsection (e) of this section, annual and regular meetings of the members may be held in or outside of the District at

the place stated in or fixed in accordance with the articles of incorporation or bylaws. If no place is stated in or fixed in accordance with the articles or bylaws, annual and regular meetings shall be held at the nonprofit corporation's principal office.

(d) The failure to hold an annual or regular meeting at the time stated in or fixed in accordance with the articles of incorporation or bylaws shall not affect the validity of any corporate action.

(e) The articles of incorporation or bylaws may provide that an annual or regular meeting of members does not need to be held at a geographic location if the meeting is held by means of the Internet or other electronic communications technology in a fashion pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions, and make comments.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.02. Special meeting.

(a) A membership corporation shall hold a special meeting of members:

(1) At the call of its board of directors or the persons authorized to do so by the articles of incorporation or bylaws; or

(2) If the holders of at least 10%, or such other amount up to 25% as the articles of incorporation or bylaws specify, of all the votes entitled to be cast on an issue proposed to be considered at the proposed special meeting sign, date, and deliver to the corporation one or more demands in the form of a record for the meeting describing the purpose for which it is to be held.

(b) Unless otherwise provided in the articles of incorporation or bylaws, a demand for a special meeting may be revoked by notice to that effect received by the membership corporation from the members calling the meeting prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

(c) If not otherwise fixed under § 29-405.03 or § 29-405.07, the record date for determining members entitled to demand a special meeting shall be the date the first member signs a demand.

(d) Except as otherwise provided in subsection (f) of this section, special meetings of the members may be held in or outside of the District at the place stated in or fixed in accordance with the articles of incorporation or bylaws. If no place is stated or fixed in accordance with the articles or bylaws, special meetings shall be held at the corporation's principal office.

(e) Only business within the purpose or purposes described in the meeting notice required by § 29-405.05(c) may be conducted at a special meeting of the members.

(f) The articles of incorporation or bylaws may provide that a special meeting of members does not need to be held at a geographic location if the

meeting is held by means of the Internet or other electronic communications technology in a fashion pursuant to which the members have the opportunity to read or hear the proceedings substantially concurrently with their occurrence, vote on matters submitted to the members, pose questions, and make comments.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-405.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.03. Court-ordered meeting.

(a) The Superior Court may summarily order a meeting to be held on application of:

(1) Any member entitled to participate in an annual or regular meeting if an annual meeting was not held within the earlier of 6 months after the end of the corporation's fiscal year or 15 months after its last annual meeting; or

(2) A member who signed a demand for a special meeting under § 29-405.02, if:

(A) Notice of the special meeting was not given within 30 days after the date the demand was delivered to the corporation's secretary; or

(B) The special meeting was not held in accordance with the notice.

(b) The Superior Court may fix the time and place of the meeting, determine the members entitled to participate in the meeting, specify a record date for determining members entitled to notice of and to vote at the meeting, prescribe the form and content of the meeting notice, fix the quorum required for specific matters to be considered at the meeting, or direct that the votes represented at the meeting constitute a quorum for action on those matters, and enter other orders necessary to accomplish the purpose of the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-405.02, § 29-405.04, and § 29-405.05. **Legislative history of Law 18-378.** — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.04. Action without meeting.

(a) Except as otherwise provided in the articles of incorporation or bylaws, action required or permitted by this chapter to be taken at a meeting of the members may be taken without a meeting if the action is taken by all the members entitled to vote on the action. The action shall be evidenced by one or more consents in the form of a record bearing the date of signature and describing the action taken, signed by all the members entitled to vote on the action, and delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

(b) If not otherwise fixed under § 29-405.03 or § 29-405.07, the record date for determining members entitled to take action without a meeting shall be the date the first member signs the consent under subsection (a) of this section. A

consent shall not be effective to take the corporate action referred to therein unless, within 60 days after the earliest date appearing on a consent delivered to the membership corporation in the manner required by this section, consents signed by members entitled to cast the required number of votes on the action are received by the corporation. A consent may be revoked by a signed notice in the form of a record to that effect received by the corporation prior to receipt by the corporation of unrevoked consents sufficient in number to take corporate action.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such.

(d) If this chapter, the articles of incorporation, or the bylaws require that notice of proposed action be given to members not entitled to vote on the action and the action is to be taken by consent of the members entitled to vote, the membership corporation shall deliver to the members not entitled to vote notice of the proposed action at least 10 days before the action is taken. The notice shall contain or be accompanied by the same material that would have been required to be delivered to members not entitled to vote in a notice of meeting at which the proposed action would have been submitted to the members for action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.05. Notice of meeting.

(a) A membership corporation shall give notice to the members of the date, time, and place of each annual, regular, or special meeting of the members. Except as otherwise provided in the articles of incorporation or the bylaws, the notice shall be given no fewer than 10 nor more than 60 days before the meeting date. Except as otherwise provided in this chapter, the articles, or the bylaws, the corporation shall give notice only to members entitled to vote at the meeting.

(b) Unless this chapter, the articles of incorporation, or the bylaws require otherwise, notice of an annual meeting need not include a description of the purpose for which the meeting is called.

(c) Notice of a special meeting shall include a description of the purpose for which the meeting is called.

(d) If not otherwise fixed under § 29-405.03 or § 29-405.07, the record date for determining members entitled to notice of and to vote at an annual or special meeting of the members is the day before the first notice is given to members.

(e) Unless the articles of incorporation or bylaws require otherwise, if an annual, regular, or special meeting of the members is adjourned to a different date, time, or place, notice need not be given of the new date, time, or place if the new date, time, or place is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or must be fixed under

§ 29-405.07, notice of the adjourned meeting shall be given under this section to the members entitled to vote on the new record date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-405.02.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

CASE NOTES

Pleadings.

In suit against church, church officials, and pastor for failing to provide proper notice of church business meeting at which pastor was elected, plaintiff's allegations, which did not clearly establish that he was a member of the church, or that he was entitled, under the

church's articles of incorporation or by-laws, to notice of or the right to participate in the election of the pastor, did not state a claim on which relief could be granted. D.C. Code 1981, § 29-515; Civil Rule 54(b). *West v. Morris*, 711 A.2d 1269, 1998 D.C. App. LEXIS 107 (1998).

§ 29-405.06. Waiver of notice.

(a) A member may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice or of the meeting or action. The waiver shall be in the form of a record, be signed by the member entitled to the notice, and be delivered to the membership corporation for inclusion in the minutes or filing with the corporate records.

(b) The attendance of a member at a meeting waives objection to:

(1) Lack of notice or defective notice of the meeting, unless the member at the beginning of the meeting objects to holding the meeting or transacting at the meeting;

(2) Consideration of a particular matter at the meeting that is not within the purpose described in the meeting notice, unless the member objects at the meeting to considering the matter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.07. Record date.

(a) The articles of incorporation or bylaws may fix or provide the manner of fixing the record date to determine the members entitled to notice of a meeting of the members, to demand a special meeting, to vote, or to take any other action. If the articles or bylaws do not fix or provide for fixing a record date, the board of directors of the membership corporation may fix a future date as the record date.

(b) A record date fixed under this section shall not be more than 70 days before the meeting or action requiring a determination of members.

(c) A determination of members entitled to notice of or to vote at a meeting of the members shall be effective for any adjournment of the meeting unless

the board of directors fixes a new record date, which it shall do if the meeting is adjourned to a date more than 120 days after the date fixed for the original meeting.

(d) If a court orders a meeting adjourned to a date more than 120 days after the date fixed for the original meeting, it may provide that the original record date continues in effect or it may fix a new record date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.02, § 29-401.50, § 29-405.02, § 29-405.04, and § 29-405.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.08. Conduct of meeting.

(a) At each meeting of members, an individual shall preside as chair. The chair shall be appointed:

(1) As provided in the articles of incorporation or bylaws;

(2) In the absence of a provision in the articles or bylaws, by the board of directors; or

(3) In the absence of both a provision in the articles or bylaws and an appointment by the board, by the members at the meeting.

(b) Except as otherwise provided in the articles of incorporation or bylaws, the chair shall determine the order of business and has the authority to establish rules for the conduct of the meeting.

(c) Any rules adopted for, and the conduct of, the meeting shall be fair to the members.

(d) The chair of the meeting shall announce at the meeting when the polls close for each matter voted upon. If no announcement is made, the polls shall be deemed to have closed upon the final adjournment of the meeting. After the polls close, no ballots, proxies, or votes, or any otherwise permissible revocations or changes thereto, shall be accepted.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.09. Action by ballot.

(a) Except as otherwise restricted by the articles of incorporation or bylaws, any action that may be taken at any annual, regular, or special meeting of members may be taken without a meeting if the membership corporation delivers a ballot to every member entitled to vote on the matter.

(b) A ballot shall:

(1) Be in the form of a record;

(2) Set forth each proposed action;

(3) Provide an opportunity to vote for, or withhold a vote for, each candidate for election as a director; and

(4) Provide an opportunity to vote for or against each other proposed action.

(c) Approval by ballot pursuant to this section of action other than election of directors shall be valid only when the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) All solicitations for votes by ballot shall:

(1) Indicate the number of responses needed to meet the quorum requirements;

(2) State the percentage of approvals necessary to approve each matter other than election of directors; and

(3) Specify the time by which a ballot must be received by the membership corporation in order to be counted.

(e) Except as otherwise provided in the articles of incorporation or bylaws, a ballot shall not be revoked.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART B.

VOTING.

§ 29-405.20. Members list for meeting.

(a) After fixing a record date for a meeting, a membership corporation shall prepare an alphabetical list of the names of all its members that are entitled to notice of that meeting of the members. The list shall show the address of and number of votes each member is entitled to cast at the meeting.

(b) The list of members shall be available for inspection by any member, beginning 2 business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the membership corporation's principal office or at a place identified in the meeting notice in the city where the meeting will be held. A member or the member's agent shall be entitled on demand in the form of a record to inspect and, subject to the requirements of § 29-413.02(c), to copy the list, during regular business hours and at the member's expense, during the period it is available for inspection.

(c) The membership corporation shall make the list of members available at the meeting, and a member or the member's agent is entitled to inspect the list at any time during the meeting or any adjournment.

(d) If a membership corporation refuses to allow a member or the member's agent to inspect the list of members before or at the meeting, or copy the list

as permitted by subsection (b) of this section, the Superior Court on application of the member, may:

(1) Summarily order the inspection or copying at the corporation's expense;

(2) Postpone the meeting for which the list was prepared until the inspection or copying is complete;

(3) Order the corporation to pay the member's costs, including reasonable attorney's fees, incurred to obtain the order; and

(4) Order other appropriate relief.

(e) Refusal or failure to prepare or make available the list of members shall not affect the validity of action taken at the meeting.

(f) Instead of making the list of members available as provided in subsection (b) of this section, a membership corporation may state in a notice of meeting that the corporation has elected to proceed under this subsection. A member of a corporation that has elected to proceed under this subsection shall state in the member's demand for inspection a proper purpose for which inspection is demanded. Within 10 business days after receiving a demand under this subsection, the corporation shall deliver to the member making the demand an offer of a reasonable alternative method of achieving the purpose identified in the demand without providing access to or a copy of the list of members. An alternative method that reasonably and in a timely manner accomplishes the proper purpose set forth in the demand relieves the corporation from making the list of members available under subsection (b) of this section, unless within a reasonable time after acceptance of the offer the corporation fails to do the things it offered to do. Any rejection of the corporation's offer shall be in the form of a record and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-413.02 and § 29-413.07. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.21. Voting entitlement of members.

Except as otherwise provided in the articles of incorporation or bylaws, each member shall be entitled to one vote on each matter voted on by the members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.22. Proxies.

(a) Except as otherwise provided in the articles of incorporation or bylaws, a member may vote in person or by proxy.

(b) A member or the member's agent or attorney-in-fact may appoint a proxy to vote or otherwise act for the member by signing an appointment form in the

form of a record. An appointment form shall contain or be accompanied by information from which it can be determined that the member or the member's agent or attorney-in-fact authorized the appointment of the proxy.

(c) An appointment of a proxy shall be effective when a signed appointment in the form of a record is received by the inspectors of election, the officer or agent of the membership corporation authorized to tabulate votes, or the secretary. An appointment shall be valid for 11 months unless a longer period, which may not exceed 3 years, is expressly provided in the appointment form.

(d) The death or incapacity of the member appointing a proxy shall not affect the right of the membership corporation to accept the proxy's authority unless notice of the death or incapacity is received by the inspectors of election, the officer or agent authorized to tabulate votes, or the secretary before the proxy exercises his authority under the appointment.

(e) Subject to § 29-405.23 and to any express limitation on the proxy's authority stated in the appointment form, a membership corporation may accept the proxy's vote or other action as that of the member making the appointment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-405.23. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

CASE NOTES

In general.

In action brought by one of two factions engaged in long-standing dispute within public service organization challenging validity of certain actions taken by convention conducted by other faction, evidence was sufficient to support finding that use of proxies at organization meetings and conventions had been accepted

through long-established and usage, thus supporting finding that use of proxy voting at meeting which approved plans for convention was proper, rendering convention lawful and its actions valid. *National Confederation of American Ethnic Groups v. Genys*, 457 A.2d 395, 1983 D.C. App. LEXIS 328 (1983).

§ 29-405.23. Acceptance of votes.

(a) If the name signed on a ballot, consent, waiver, or proxy appointment corresponds to the name of a member, the membership corporation if acting in good faith may accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member.

(b) If the name signed on a ballot, consent, waiver, or proxy appointment does not correspond to the name of its member, the membership corporation if acting in good faith may nevertheless accept the ballot, consent, waiver, or proxy appointment and give it effect as the act of the member if:

(1) The member is an entity and the name signed purports to be that of an officer or agent of the entity;

(2) The name signed purports to be that of an administrator, executor, guardian, or conservator representing the member and, if the corporation requests, evidence of fiduciary status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment;

(3) The name signed purports to be that of a receiver or trustee in bankruptcy of the member and, if the corporation requests, evidence of this status acceptable to the corporation has been presented with respect to the ballot, consent, waiver, or proxy appointment;

(4) The name signed purports to be that of a beneficial owner or attorney-in-fact of the member and, if the corporation requests, evidence acceptable to the corporation of the signatory's authority to sign for the member has been presented with respect to the ballot, consent, waiver, or proxy appointment; or

(5) Two or more persons are the member as co-tenants or fiduciaries and the name signed purports to be the name of at least one of the co-owners and the person signing appears to be acting on behalf of all the co-owners.

(c) The membership corporation may reject a ballot, consent, waiver, or proxy appointment if the secretary or other officer or agent authorized to tabulate votes, acting in good faith, has reasonable basis for doubt about the validity of the signature on it or about the signatory's authority to sign for the member.

(d) The membership corporation and its officer or agent that accepts or rejects a ballot, consent, waiver, or proxy appointment in good faith and in accordance with the standards of this section or § 29-405.22(b) shall not be liable in damages to the member for the consequences of the acceptance or rejection.

(e) Corporate action based on the acceptance or rejection of a ballot, consent, waiver, or proxy appointment under this section shall be valid unless a court of competent jurisdiction determines otherwise.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50 and § 29-405.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.24. Quorum and voting requirements for voting groups.

(a) Members entitled to vote as a separate voting group may take action on a matter at a meeting only if a quorum of those members exists with respect to that matter. Except as otherwise provided in the articles of incorporation or bylaws, a majority of the votes entitled to be cast on the matter by the voting group constitutes a quorum of that voting group for action on that matter.

(b) Once a member is represented for any purpose at a meeting, the member shall be deemed present for quorum purposes for the remainder of the meeting and for any adjournment of that meeting unless a new record date is or must be set for that adjourned meeting.

(c) If a quorum exists, action on a matter, other than the election of directors, by a voting group is approved if the votes cast within the voting group favoring the action exceed the votes cast opposing the action, unless the articles of incorporation or bylaws require a greater number of affirmative votes.

(d) An amendment of the articles of incorporation or bylaws adding,

changing, or deleting a quorum or voting requirement for a voting group greater than specified in subsection (a) or (c) of this section shall be governed by § 29-405.26.

(e) If a meeting cannot be organized because a quorum is not present, those members present may adjourn the meeting to such time and place as they may determine. Except as otherwise provided in the articles of incorporation or bylaws, when a meeting that has been adjourned for lack of a quorum is reconvened, those members present, although less than a quorum as fixed in this section, the articles, or the bylaws, nonetheless constitute a quorum.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50 and § 29-405.25. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.25. Action by single and multiple voting groups.

(a) If this chapter, the articles of incorporation, or the bylaws provide for voting by a single voting group on a matter, action on that matter is taken when voted upon by that voting group as provided in § 29-405.24.

(b) If this chapter, the articles of incorporation, or the bylaws provide for voting by 2 or more voting groups on a matter, action on that matter shall be taken only when voted upon by each of those voting groups counted separately as provided in § 29-405.24.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.26. Different quorum or voting requirements.

(a) The articles of incorporation or bylaws may provide for a higher or lower quorum or voting requirement for members, or voting groups of members, than is provided for by this chapter.

(b) An amendment to the articles of incorporation or bylaws that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-405.24. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-405.27. Voting for directors.

(a) Except as otherwise provided in the articles of incorporation or bylaws,

directors of a membership corporation shall be elected by a plurality of the votes cast by the members entitled to vote in the election at a meeting at which a quorum is present.

(b) Unless permitted by the articles of incorporation or bylaws, members shall not have a right to cumulate their votes for directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-405.28. Inspectors of election.

(a) A membership corporation may appoint one or more inspectors to act at a meeting of members and make a report in the form of a record of the inspectors' determinations. Each inspector shall execute the duties of inspector impartially and according to the best of the inspector's ability.

(b) The inspectors shall:

- (1) Ascertain the number of members and their voting power;
- (2) Determine the members present at a meeting;
- (3) Determine the validity of proxies and ballots;
- (4) Count all votes; and
- (5) Determine the result.

(c) An inspector may, but need not, be a director, member of a designated body, member, officer, or employee of the membership corporation. An individual who is a candidate for office to be filled at the meeting may not be an inspector.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART C.

VOTING AGREEMENTS.

§ 29-405.40. Voting agreements.

(a) Two or more members may provide for the manner in which they will vote by signing an agreement in the form of a record for that purpose. A voting agreement shall be valid for a period of up to 10 years. If no time is stated in the voting agreement, the agreement shall be valid for 5 years. The members who signed the voting agreement may, at any time, alter or terminate the agreement by signing a new agreement.

(b) A voting agreement created under this section shall be specifically enforceable, except that a voting agreement is not enforceable to the extent

that enforcement of the agreement would violate the purposes of the membership corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter VI. Directors, Officers, and Employees.

PART A.

BOARD OF DIRECTORS.

§ 29-406.01. Requirement for and functions of board of directors.

(a) A nonprofit corporation shall have a board of directors.

(b) Except as otherwise provided in § 29-406.12, all corporate powers shall be exercised by or under the authority of the board of directors of the nonprofit corporation, and the activities and affairs of the corporation shall be managed by or under the direction, and subject to the oversight, of its board of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.25. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.02. Qualifications of directors.

A director of a nonprofit corporation shall be an individual. The articles of incorporation or bylaws may prescribe other qualifications for directors. A director need not be a resident of the District or a member of the corporation unless the articles or bylaws so prescribe.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.03. Number of directors.

(a) A board of directors shall consist of 3 or more directors, with the number specified in or fixed in accordance with the articles of incorporation or bylaws.

(b) The number of directors may be increased or decreased, but to no fewer than 3, by amendment to, or in the manner provided in, the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.04. Selection of directors.

(a) The directors of a membership corporation, other than any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected at the first annual meeting of members, and at each annual meeting thereafter, unless the articles or bylaws provide some other time or method of election, or provide that some or all of the directors are appointed by some other person or designated in some other manner.

(b) The directors of a nonmembership corporation, other than any initial directors named in the articles of incorporation or elected by the incorporators, shall be elected, appointed, or designated as provided in the articles or bylaws. If no method of designation or appointment is set forth in the articles or bylaws, the directors, other than any initial directors, shall be elected by the board.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.05. Terms of directors generally.

(a) The articles of incorporation or bylaws may specify the terms of directors. If a term is not specified in the articles or bylaws, the term of a director is one year. Except for directors who are appointed by persons that are not members or who are designated in a manner other than by election or appointment, the term of a director shall not exceed 5 years. Except as otherwise provided in the articles or bylaws, a director shall be appointed, elected, or otherwise designated for additional terms.

(b) A decrease in the number of directors or term of office shall not shorten an incumbent director's term.

(c) Except as otherwise provided in the articles of incorporation or bylaws, the term of a director elected to fill a vacancy expires at the end of the unexpired term that the director is filling.

(d) Despite the expiration of a director's term, the director shall continue to serve until the director's successor is elected, appointed, or designated and until the director's successor takes office, unless otherwise provided in the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.06. Staggered terms for directors.

The articles of incorporation or bylaws may provide for staggering the terms of directors by dividing the total number of directors into groups of one or more directors. The terms of office and number of directors in each group do not need to be uniform.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.07. Resignation of directors.

(a) A director may resign at any time by delivering a signed notice in the form of a record to the chair of the board of directors or to an executive officer or the secretary of the corporation.

(b) A resignation shall be effective when the notice is delivered unless the notice specifies a later effective time.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50 and § 29-406.10. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.08. Removal of directors by members or other persons.

(a) Removal of directors of a membership corporation shall be subject to the following provisions:

(1) The members may remove, with or without cause, one or more directors who have been elected by the members, unless the articles of incorporation or bylaws provide that directors may be removed only for cause. The articles or bylaws may specify what constitutes cause for removal.

(2) Except as otherwise provided in the articles of incorporation or bylaws, if a director is elected by a voting group of members, by a chapter or other organizational unit, or by a region or other geographic grouping, only the members of that voting group or chapter, unit, region, or grouping may participate in the vote to remove the director.

(3) The notice of a meeting of members at which removal of a director is to be considered shall state that the purpose, or one of the purposes, of the meeting is removal of the director.

(4) The board of directors of a membership corporation shall not remove a director except as otherwise provided in subsection (c) of this section or in the articles of incorporation or bylaws.

(b) The board of directors may remove a director of a nonmembership corporation:

(1) With or without cause, unless the articles of incorporation or bylaws

provide that directors may be removed only for cause; provided, that articles or bylaws may specify what constitutes cause for removal; or

(2) As provided in subsection (c) of this section.

(c) The board of directors of a membership corporation or nonmembership corporation may remove a director who:

(1) Has been declared of unsound mind by a final order of court;

(2) Has been convicted of a felony;

(3) Has been found by a final order of court to have breached a duty as a director under part C of this subchapter;

(4) Has missed the number of board meetings specified in the articles of incorporation or bylaws, if the articles or bylaws at the beginning of the director's current term provided that a director may be removed for missing the specified number of board meetings; or

(5) Does not satisfy at the time any of the qualifications for directors set forth in the articles of incorporation or bylaws at the beginning of the director's current term, if the decision that the director fails to satisfy a qualification is made by the vote of a majority of the directors who meet all of the required qualifications.

(d) A director who is designated in the articles of incorporation or bylaws may be removed by an amendment to the articles or bylaws deleting or changing the designation.

(e) Except as otherwise provided in the articles of incorporation or bylaws, a director who is appointed by persons other than the members may be removed with or without cause by those persons.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50 and § 29-408.22. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.09. Removal of directors by judicial proceeding.

(a) The Superior Court may remove a director from office in a proceeding commenced by or in the right of the corporation if the court finds that:

(1) The director engaged in fraudulent conduct with respect to the corporation or its members, grossly abused the position of director, or intentionally inflicted harm on the corporation; and

(2) Considering the director's course of conduct and the inadequacy of other available remedies, removal would be in the best interests of the corporation.

(b) A member, individual director, or member of a designated body proceeding on behalf of the nonprofit corporation under subsection (a) of this section shall comply with all of the requirements of subchapter XI of this chapter.

(c) The court, in addition to removing the director, may bar the director from being reelected, redesignated, or reappointed for a period prescribed by the court.

(d) Nothing in this section limits the equitable powers of the court to order other relief.

(e) If a proceeding is commenced under this section to remove a director of a charitable corporation, the plaintiff shall give the Attorney General for the District of Columbia notice in record form of the commencement of the proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.10. Vacancy on board.

(a) Except as otherwise provided in subsection (b) of this section, the articles of incorporation, or the bylaws, if a vacancy occurs on the board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by a majority of the directors remaining in office even if they constitute less than a quorum.

(b) Except as otherwise provided in the articles of incorporation or bylaws, a vacancy in the position of a director who is:

(1) Elected by a voting group of members, by a chapter or other organizational unit of members, or by a region or other geographic grouping of members, shall be filled during the first 3 months after the vacancy occurs only by that voting group or chapter, unit, region, or grouping;

(2) Appointed by persons other than the members, may be filled only by those persons; or

(3) Designated in the articles of incorporation or bylaws shall not be filled by action of the board of directors.

(c) A vacancy that will occur at a specific later time, by reason of a resignation effective at a later time under § 29-406.07(b) or otherwise, may be filled before the vacancy occurs but the new director shall not take office until the vacancy occurs.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.11. Compensation of directors.

Unless the articles of incorporation or bylaws provide otherwise, the board of directors may fix the compensation of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.12. Designated body.

(a) Some, but less than all, of the powers, authority, or functions of the board of directors of a nonprofit corporation under this chapter may be vested by the articles of incorporation or bylaws in a designated body. If a designated body is created:

(1) This subchapter and other provisions of law on:

(A) The rights, duties, and liabilities of the board of directors or directors individually shall also apply to the designated body and to the members of the designated body individually; and

(B) Meetings, notice, and the manner of acting of the board of directors shall also apply to the designated body in the absence of an applicable rule in the articles of incorporation, bylaws, or internal operating rules of the designated body;

(2) To the extent the powers, authority, or functions of the board of directors have been vested in the designated body, the directors shall be relieved from their duties and liabilities with respect to those powers, authority, and functions; and

(3) A provision of the articles of incorporation regarding indemnification of directors or limiting the liability of directors adopted pursuant to § 29-402.02(b)(8) or (c) applies to members of the designated body, except as otherwise provided in the articles.

(b) Some, but less than all, of the rights or obligations of the members of a nonprofit corporation under this chapter may be vested by the articles of incorporation or bylaws in a designated body. If such a designated body is created:

(1) This subchapter and other provisions of law on:

(A) The rights and obligations of members shall also apply to the designated body and to the members of the designated body individually; and

(B) Meetings, notice, and the manner of acting of members shall also apply to the designated body in the absence of an applicable provision in the articles of incorporation, bylaws, or internal operating rules of the designated body;

(2) To the extent the rights or obligations of the members have been vested in the designated body, the members shall be relieved from responsibility with respect to those rights and obligations.

(c) The articles of incorporation or bylaws may prescribe qualifications for members of a designated body. Except as otherwise provided in the articles or bylaws, a member of a designated body does not need to be:

(1) An individual;

(2) A director, officer, or member of the nonprofit corporation; or

(3) A resident of the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(11), 59 DCR 13171.)

Section references. — This section is referenced in § 29-406.01 and § 29-408.22.

Effect of amendments. — The 2013

amendment by D.C. Law 19-210 substituted “incorporation or bylaws in a designated body” for “incorporation in a designated body” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

PART B.

MEETINGS AND ACTION OF THE BOARD.

§ 29-406.20. Meetings.

(a) The board of directors may hold regular or special meetings in or outside of the District.

(b) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means shall be considered to be present in person at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.25.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.21. Action without meeting.

(a) Except to the extent that the articles of incorporation or bylaws require that action by the board of directors be taken at a meeting, action required or permitted by this chapter to be taken by the board of directors may be taken without a meeting if each director signs a consent in the form of a record describing the action to be taken and delivers it to the nonprofit corporation.

(b) Action taken under this section shall be the act of the board of directors when one or more consents signed by all the directors are delivered to the nonprofit corporation. The consent may specify the time at which the action taken in the consent is to be effective. A director's consent may be withdrawn by a revocation in the form of a record signed by the director and delivered to the corporation prior to delivery to the corporation of unrevoked consents signed by all the directors.

(c) A consent signed under this section has the effect of action taken at a meeting of the board of directors and may be described as such in any document.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.22. Call and notice of meeting.

(a) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors shall be held with notice of the date, time, place, or purpose of the meeting; provided, that at the beginning of each one-year period, the corporation may provide a single notice of all regularly scheduled meetings for that year, or for a lesser period, without having to give notice of each meeting individually.

(b) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least 2 days' notice of the date, time, and place of the meeting. The notice need not describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

(c) Unless the articles of incorporation or bylaws provide otherwise, the chair of the board, the highest ranking officer of the corporation, or 20% of the directors then in office may call and give notice of a meeting of the board of directors.

(d) The articles of incorporation or bylaws may authorize oral notice of meetings of the board of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.23. Waiver of notice.

(a) A director may waive any notice required by this chapter, the articles of incorporation, or the bylaws before or after the date and time stated in the notice. Except as otherwise provided in subsection (b) of this section, the waiver shall be in the form of a record, signed by the director entitled to the notice, and filed with the minutes or corporate records.

(b) A director's attendance at or participation in a meeting shall waive any required notice to the director of the meeting, unless the director at the beginning of the meeting, or promptly upon arrival, objects to holding the meeting or transacting at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.24. Quorum and voting.

(a) Except as otherwise provided in subsection (b) of this section, the articles of incorporation, or the bylaws, a quorum of the board of directors shall consist of a majority of the directors in office before a meeting begins.

(b) The articles of incorporation or bylaws may authorize a quorum of the

board of directors to consist of no fewer than the greater of $\frac{1}{3}$ of the number of directors in office or 2 directors.

(c) If a quorum is present when a vote is taken, the affirmative vote of a majority of directors present shall be the act of the board of directors unless a greater vote is required by the articles of incorporation or bylaws.

(d) A director who is present at a meeting of the board of directors when corporate action is taken shall be considered to have assented to the action taken unless one of the following applies:

(1) The director objects at the beginning of the meeting, or promptly upon arrival, to holding it or transacting at the meeting; or

(2) The director dissents or abstains from the action and:

(A) The dissent or abstention is entered in the minutes of the meeting; or

(B) The director delivers notice in the form of a record of the director's dissent or abstention to the presiding officer of the meeting before its adjournment or to the corporation promptly after adjournment of the meeting.

(e) The right of dissent or abstention shall not be available to a director who votes in favor of the action taken.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50, § 29-406.25, and § 29-406.53.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.25. Board and advisory committees.

(a) Unless this chapter, the articles of incorporation, or the bylaws provide otherwise, a board of directors may create one or more committees of the board that consist of one or more directors.

(b) Unless this chapter otherwise provides, the creation of a committee and appointment of directors to it shall be approved by the greater of:

(1) A majority of all the directors in office when the action is taken; or

(2) The number of directors required by the articles of incorporation or bylaws to take action under § 29-406.24.

(c) Sections 29-406.20 through 29-406.24 shall apply both to committees of the board and to their members.

(d) To the extent specified by the board of directors or in the articles of incorporation or bylaws, each committee may exercise the powers of the board of directors under § 29-406.01 except as limited by subsection (e) of this section.

(e) A committee shall not:

(1) Authorize distributions;

(2) In the case of a membership corporation, approve or propose to members action that this chapter requires be approved by members;

(3) Fill vacancies on the board of directors or, subject to subsection (g) of this section, on any of its committees; or

(4) Adopt, amend, or repeal bylaws.

(f) The creation of, delegation of authority to, or action by a committee shall

not alone constitute compliance by a director with the standards of conduct described in § 29-406.30.

(g) The board of directors may appoint one or more directors as alternate members of any committee to replace any absent or disqualified member during the member's absence or disqualification.

(h) A nonprofit corporation may create or authorize the creation of one or more advisory committees whose members need not be directors. An advisory committee shall not:

- (1) Be a committee of the board; and
- (2) Exercise any of the powers of the board.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART C.

DIRECTORS.

§ 29-406.30. Standards of conduct for directors.

(a) Each member of the board of directors, when discharging the duties of a director, shall act:

- (1) In good faith; and
- (2) In a manner the director reasonably believes to be in the best interests of the nonprofit corporation.

(b) The members of the board of directors or a committee of the board, when becoming informed in connection with their decision-making function or devoting attention to their oversight function, shall discharge their duties with the care that a person in a like position would reasonably believe appropriate under similar circumstances.

(c) In discharging board or committee duties a director shall disclose, or cause to be disclosed, to the other board or committee members information not already known by them but known by the director to be material to the discharge of their decision-making or oversight functions, except that disclosure is not required to the extent that the director reasonably believes that doing so would violate a duty imposed by law, a legally enforceable obligation of confidentiality, or a professional ethics rule.

(d) In discharging board or committee duties, a director who does not have knowledge that makes reliance unwarranted may rely on the performance by any of the persons specified in subsection (f)(1), (3), or (4) of this section to whom the board may have delegated, formally or informally by course of conduct, the authority or duty to perform one or more of the board's functions that are delegable under applicable law.

(e) In discharging board or committee duties a director who does not have knowledge that makes reliance unwarranted may rely on information, opin-

ions, reports, or statements, including financial statements and other financial data, prepared or presented by any of the persons specified in subsection (f) of this section.

(f) A director may rely, in accordance with subsection (d) or (e) of this section, on:

(1) One or more officers, employees, or volunteers of the nonprofit corporation whom the director reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(2) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the director reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence;

(3) A committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence; or

(4) In the case of a religious corporation, religious authorities and ministers, priests, rabbis, imams, or other persons whose positions or duties the director reasonably believes justify reliance and confidence and whom the director believes to be reliable and competent in the matters presented.

(g) A director shall not be a trustee with respect to the nonprofit corporation or with respect to any property held or administered by the corporation, including property that may be subject to restrictions imposed by the donor or transferor of the property.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.25 and § 29-406.33. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.31. Standards of liability for directors.

(a) A director shall not be liable to the nonprofit corporation or its members for any decision to take or not to take action, or any failure to take any action, as a director, unless the party asserting liability in a proceeding establishes that:

(1) None of the following, if interposed as a bar to the proceeding by the director, precludes liability:

(A) Subsection (d) of this section or a provision in the articles of incorporation authorized by § 29-402.02(c);

(B) Satisfaction of the requirements in § 29-406.70 for validating a conflicting interest transaction; or

(C) Satisfaction of the requirements in § 29-406.80 for disclaiming a business opportunity; and

(2) The challenged conduct consisted or was the result of:

(A) Action not in good faith;

(B) A decision:

(i) Which the director did not reasonably believe to be in the best interests of the corporation; or

(ii) As to which the director was not informed to an extent the director reasonably believed appropriate in the circumstances; or

(C) A lack of objectivity due to the director's familial, financial, or business relationship with, or a lack of independence due to the director's domination or control by, another person having a material interest in the challenged conduct:

(i) Which relationship or which domination or control could reasonably be expected to have affected the director's judgment respecting the challenged conduct in a manner adverse to the corporation; and

(ii) After a reasonable expectation to such effect has been established, the director has not established that the challenged conduct was reasonably believed by the director to be in the best interests of the corporation;

(D) A sustained failure of the director to devote attention to ongoing oversight of the activities and affairs of the corporation, or a failure to devote timely attention, by making, or causing to be made, appropriate inquiry, when particular facts and circumstances of significant concern materialize that would alert a reasonably attentive director to the need therefor; or

(E) Receipt of a financial benefit to which the director was not entitled or any other breach of the director's duties to deal fairly with the corporation and its members that is actionable under applicable law.

(b) The party seeking to hold the director liable:

(1) For money damages, also has the burden of establishing that:

(A) Harm to the nonprofit corporation or its members has been suffered; and

(B) The harm suffered was proximately caused by the director's challenged conduct;

(2) For other money payment under a legal remedy, such as compensation for the unauthorized use of corporate assets, also has whatever persuasion burden may be called for to establish that the payment sought is appropriate in the circumstances; or

(3) For other money payment under an equitable remedy, such as profit recovery by or disgorgement to the corporation, also has whatever persuasion burden may be called for to establish that the equitable remedy sought is appropriate in the circumstances.

(c) Nothing contained in this section:

(1) In any instance where fairness is at issue, such as consideration of the fairness of a transaction to the nonprofit corporation under § 29-406.70(a)(3), alters the burden of proving the fact or lack of fairness otherwise applicable;

(2) Alters the fact or lack of liability of a director under another section of this chapter, such as the provisions governing the consequences of an unlawful distribution under § 29-406.33, a conflicting interest transaction under § 29-406.70, or taking advantage of a business opportunity under § 29-406.80; or

(3) Affects any rights to which the corporation or a director or member may be entitled under another statute of the District or the United States.

(d) Notwithstanding any other provision of this section, a director of a charitable corporation shall not be liable to the corporation or its members for

money damages for any action taken, or any failure to take any action, as a director, except liability for:

- (1) The amount of a financial benefit received by the director to which the director is not entitled;
- (2) An intentional infliction of harm;
- (3) A violation of § 29-406.33; or
- (4) An intentional violation of criminal law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.53. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.32. Loans to or guarantees for directors and officers.

(a) A nonprofit corporation shall not lend money to or guarantee the obligation of a director or officer of the corporation.

(b) This section shall not apply to:

- (1) An advance to pay reimbursable expenses reasonably expected to be incurred by a director or officer;
- (2) An advance to pay premiums on life insurance if the advance is secured by the cash value of the policy;
- (3) Advances pursuant to part E of this subchapter;
- (4) Loans or advances pursuant to employee benefit plans;
- (5) A loan secured by the principal residence of an officer; or
- (6) A loan to pay relocation expenses of an officer.

(c) The fact that a loan or guarantee is made in violation of this section shall not affect the borrower's liability on the loan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-403.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.33. Directors' liability for unlawful distributions.

(a) A director who votes for or assents to a distribution made in violation of this chapter shall be personally liable to the nonprofit corporation for the amount of the distribution that exceeds what could have been distributed without violating this chapter if the party asserting liability establishes that, when taking the action, the director did not comply with § 29-406.30.

(b) A director held liable under subsection (a) of this section for an unlawful distribution shall be entitled to:

- (1) Contribution from every other director who could be held liable under subsection (a) for the unlawful distribution; and
- (2) Recoupment from each person of the pro-rata portion of the amount of the unlawful distribution the person received, whether or not the person knew the distribution was made in violation of this chapter.

(c) A proceeding to enforce:

(1) The liability of a director under subsection (a) of this section shall be barred unless it is commenced within 2 years after the date on which the distribution was made; or

(2) Contribution or recoupment under subsection (b) of this section shall be barred unless it is commenced within one year after the liability of the claimant has been finally adjudicated under subsection (a) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-402.02 and § 29-406.31. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART D.

OFFICERS.

§ 29-406.40. Officers.

(a) The officers of a nonprofit corporation shall be the individuals who hold the offices described in its articles of incorporation or bylaws or are appointed or elected in accordance with the articles and bylaws or as authorized by the board of directors. At a minimum, a nonprofit corporation shall have 2 separate officers, one responsible for the management of the corporation, who may be referred to as the “President” or by any other term used in its articles of incorporation or bylaws and another responsible for the financial affairs of the corporation, who may be referred to as the “Treasurer”, or by any other term used in its articles of incorporation or bylaws.

(b) The articles of incorporation or bylaws or the board of directors shall assign to one of the officers responsibility for preparing or supervising the preparation of the minutes of the meetings of the board of directors and the members, if any, and for maintaining and authenticating the records of the corporation required to be kept under § 29-413.01(a) and (e).

(c) The same individual may simultaneously hold more than one office in a nonprofit corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.41. Duties of officers.

Each officer has the authority and shall perform the duties set forth in the articles of incorporation or bylaws or, to the extent consistent with the articles and bylaws, the duties prescribed by the board of directors or by direction of an officer authorized by the board of directors to prescribe the duties of other officers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Investment duties.

—In general.

—Liability, investment duties.

Remedies.

Investment duties.

— In general.

A corporate director may delegate his investment responsibility to fellow directors, corporate officers, or even outsiders, but he must continue to exercise general supervision over the activities of his delegates. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A corporate director who fails to acquire the information necessary to supervise investment policy, or who consistently fails even to attend the meetings at which such policies are considered, has violated his fiduciary duty to the corporation. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

While a corporate director is permitted to rely upon the expertise of those to whom he has delegated investment responsibility, such reliance is a tool for interpreting the delegate's reports, not an excuse for dispensing with or ignoring such reports. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A corporate director whose failure to supervise investment policy permits negligent mismanagement by others to go unchecked has committed an independent wrong against the corporation; he is not merely an accessory under an attenuated theory of respondeat superior or constructive notice. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A director or trustee of a charitable hospital organized under the Non-Profit Corporation Act of the District of Columbia is in default of

his fiduciary duty to manage the fiscal and investment affairs of the hospital if it has been shown by a preponderance of the evidence that while assigned to a particular committee of the board having general financial or investment responsibility under the bylaws of the corporation, he has failed to use due diligence in supervising the actions of those officers, employees or outside experts to whom the responsibility for making day-to-day financial or investment decisions has been delegated. D.C. Code § 29-1001 et seq. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

— Liability, investment duties.

Both trustees and corporate directors are liable for losses occasioned by their negligent mismanagement of investments. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A trustee is uniformly held to a high standard of care and will be held liable for simple negligence in relation to mismanagement of investments, while a corporate director must often have committed "gross negligence" or otherwise be guilty of more than mere mistakes of judgment in order to be held liable. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

Remedies.

It would be desirable, in action challenging various aspects of hospital's fiscal management, to require by injunction that the appropriate committees and officers of the hospital present to the full board a written policy statement governing investments and the use of idle cash in the hospital's bank accounts and other funds, and that a procedure be instituted for the periodic reexamination of existing investments and other financial arrangements to insure compliance with the board's policies. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

§ 29-406.42. Standards of conduct for officers.

(a) An officer with discretionary authority shall discharge his or her duties under that authority:

- (1) In good faith;
- (2) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
- (3) In a manner the officer reasonably believes to be in the best interests of the corporation.

(b) The duty of an officer shall include the obligation to inform:

(1) The superior officer to whom, or the board of directors or the committee thereof to which, the officer reports of information about the affairs of the nonprofit corporation known to the officer, within the scope of the officer's functions, and known to the officer to be material to the superior officer, board, or committee; and

(2) His or her superior officer, or another appropriate person within the nonprofit corporation, or the board of directors, or a committee thereof, of any actual or probable material violation of law involving the corporation or material breach of duty to the corporation by an officer, employee, or agent of the corporation, that the officer believes has occurred or is likely to occur.

(c) In discharging his or her duties, an officer who does not have knowledge that makes reliance unwarranted may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(1) One or more officers or employees of the nonprofit corporation whom the officer reasonably believes to be reliable and competent in the functions performed or the information, opinions, reports, or statements provided;

(2) Legal counsel, public accountants, or other persons retained by the corporation as to matters involving skills or expertise the officer reasonably believes are matters:

(A) Within the particular person's professional or expert competence; or

(B) As to which the particular person merits confidence;

(3) In the case of a religious corporation, religious authorities and ministers, priests, rabbis, imams, or other persons whose positions or duties the officer reasonably believes justify reliance and confidence and whom the officer believes to be reliable and competent in the matters presented.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(12), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "religious corporation" for "corporation engaged in a religious activity" in (c)(3).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Conflicts of interest.

Under District of Columbia law, neither trustees nor corporate directors are absolutely barred from placing funds under their control into a bank having an interlocking directorship

with their own institution, but in both cases such transactions will be subjected to the closest scrutiny to determine whether or not the duty of loyalty has been violated. *Stern v. Lucy Webb Hayes Nat'l Training School for Deacon-*

esses & Missionaries, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A deliberate conspiracy among trustees or corporate board members to enrich an interlocking bank at the expense of the trust or corporation would constitute a breach of fiduciary duty and render the conspirators liable for any losses. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

Trustees may be found guilty of a breach of trust even for mere negligence in the maintenance of accounts in banks with which they are associated, while corporate directors are generally only required to show entire fairness to the corporation and full disclosure of the potential conflict of interest to the board of directors. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A director or trustee of a charitable hospital organized under the Non-Profit Corporation Act of the District of Columbia is in default of his fiduciary duty to manage the fiscal and investment affairs of the hospital if it has been shown by a preponderance of the evidence that he knowingly permitted the hospital to enter into business transaction with himself or with any corporation, partnership or association in

which he then had a substantial interest or held a position as trustee, director, general manager or principal officer, without having previously informed persons charged with approving that transaction of his interest or position and of any significant reasons, unknown to or not fully appreciated by such persons, why the transaction might not be in the best interests of the hospital. D.C. Code § 29-1001 et seq. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

A director or trustee of a charitable hospital organized under the Non-Profit Corporation Act of the District of Columbia is in default of his fiduciary duty to manage the fiscal and investment affairs of the hospital if it has been shown by a preponderance of the evidence that he actively participated in or voted in favor of a decision by the board or any committee or subcommittee thereof to transact business with himself or with any corporation, partnership or association in which he then had a substantial interest or held a position as trustee, director, general manager or principal officer, or if he otherwise failed to perform his duties honestly, in good faith, and with a reasonable amount of diligence and care. D.C. Code § 29-1001 et seq. *Stern v. Lucy Webb Hayes Nat'l Training School for Deaconesses & Missionaries*, 381 F. Supp. 1003, 1974 U.S. Dist. LEXIS 7380 (1974).

§ 29-406.43. Resignation and removal of officers.

(a) An officer may resign at any time by delivering notice to the nonprofit corporation. A resignation shall be effective when the notice is delivered unless the notice specifies a later effective time. If a resignation is made effective at a later time and the board of directors or the appointing officer accepts the future effective time, the board or the appointing officer may designate a successor before the effective time if the board or the appointing officer provides that the successor does not take office until the effective time.

(b) Except as otherwise provided in the articles of incorporation or bylaws, an officer may be removed at any time with or without cause by:

- (1) The board of directors;
- (2) The officer who appointed the officer being removed, unless the board provides otherwise; or
- (3) Any other officer authorized by the articles, the bylaws, or the board.

(c) For the purposes of this section, the term "appointing officer" means the officer, including any successor to that officer, who appointed the officer resigning or being removed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-401.50.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Due process of law.

Dismissal of official of government agency did not constitute a deprivation of a protected property interest without due process where agency's policy governing employee tenure was that "appointments may be terminated at any time," which position was consistent with the statu-

tory law of the District of Columbia concerning the power of nonprofit corporations to remove their officials, and where in any event, official received all the process that was due. U.S. Const. Amend. 5. *Foster v. Ripley*, 645 F.2d 1142, 1981 U.S. App. LEXIS 14573 (C.A.D.C. 1981).

§ 29-406.44. Contract rights of officers.

(a) The appointment of an officer shall not itself create contract rights.

(b) An officer's removal shall not affect the officer's contract rights, if any, with the nonprofit corporation. An officer's resignation shall not affect the corporation's contract rights, if any, with the officer.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART E.

INDEMNIFICATION AND ADVANCE FOR EXPENSES.

§ 29-406.50. Definitions.

For the purposes of this part, the term:

(1) "Corporation" includes any domestic or foreign predecessor entity of a nonprofit corporation in a merger, conversion, or domestication.

(2) "Director" or "officer" means an individual who is or was a director or officer, respectively, of a nonprofit corporation or who, while a director or officer of the corporation, is or was serving at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity. A director or officer shall be considered to be serving an employee benefit plan at the corporation's request if the individual's duties to the corporation also impose duties on, or otherwise involve services by, the individual to the plan or to participants in or beneficiaries of the plan. The term "director" includes a member of a designated body. The term "director" or "officer" includes, unless the context requires otherwise, the estate or personal representative of a director or officer.

(3) "Disinterested director" means a director who, at the time of a vote referred to in § 29-406.53(c) or a vote or selection referred to in § 29-406.55(b) or (c), is not:

(A) A party to the proceeding; or

(B) An individual having a familial, financial, professional, or employment relationship with the director whose indemnification or advance for

expenses is the subject of the decision being made, which relationship would, in the circumstances, reasonably be expected to exert an influence on the director's judgment when voting on the decision being made.

(4) "Expenses" include attorneys' fees.

(5) "Liability" means the obligation to pay a judgment, settlement, penalty, fine, including an excise tax assessed with respect to an employee benefit plan, or reasonable expenses incurred with respect to a proceeding.

(6)(A) "Official capacity" means:

(i) When used with respect to a director, the office of director in a nonprofit corporation; and

(ii) When used with respect to an officer, as contemplated in § 29-406.56, the office in a corporation held by the officer; and.

(B) The term "official capacity" does not include service for any other domestic or foreign corporation or any partnership, joint venture, trust, employee benefit plan, or other entity.

(7) "Party" means an individual who was, is, or is threatened to be made, a defendant or respondent in a proceeding.

(8) "Proceeding" includes a threatened, pending, or completed proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-402.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.51. Permissible indemnification.

(a) Except as otherwise provided in this section, a nonprofit corporation may indemnify an individual who is a party to a proceeding because he or she is or was a director against liability incurred in the proceeding if:

(1) The individual:

(A) Acted in good faith;

(B) Reasonably believed:

(i) In the case of conduct in an official capacity, that the conduct was in the best interests of the corporation; and

(ii) In all other cases, that the individual's conduct was at least not opposed to the best interests of the corporation; and

(C) In the case of any criminal proceeding, had no reasonable cause to believe his or her conduct was unlawful; or

(2) The individual engaged in conduct for which broader indemnification has been made permissible or obligatory under a provision of the articles of incorporation, as authorized by § 29-402.02(b)(7).

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and the beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(1)(B)(ii) of this section.

(c) The termination of a proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of

itself, determinative that the director did not meet the relevant standard of conduct described in this section.

(d) Unless ordered by a court under § 29-406.54(a)(3), a nonprofit corporation shall not indemnify a director:

(1) In connection with a proceeding by or in the right of the corporation, except for reasonable expenses incurred in connection with the proceeding if it is determined that the director has met the relevant standard of conduct under subsection (a) of this section; or

(2) In connection with any proceeding with respect to conduct for which the director was adjudged liable on the basis that the director received a financial benefit to which the director was not entitled, whether or not involving action in an official capacity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(13), 59 DCR 13171.)

Section references. — This section is referenced in § 29-406.53, § 29-406.54, § 29-406.55, and § 29-406.58.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “§ 29-402.02(b)(7)” for “§ 29-402.02(b)(8)” in (a)(2).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-406.52. Mandatory indemnification.

A nonprofit corporation shall indemnify a director or officer to the extent the director or officer was successful, on the merits or otherwise, in the defense of any proceeding to which the director or officer was a party because the director or officer was a director or officer of the corporation against reasonable expenses incurred by the director or officer in connection with the proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.53, § 29-406.54, and § 29-406.56.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.53. Advance for expenses.

(a) A nonprofit corporation may, before final disposition of a proceeding, advance funds to pay for or reimburse the reasonable expenses incurred by an individual who is a party to a proceeding because he or she is or was a director if the individual delivers to the corporation:

(1) An affirmation in the form of a record of his or her good faith belief that he or she has met the relevant standard of conduct described in § 29-406.51 or that the proceeding involves conduct for which liability has been eliminated by § 29-406.31(d) or under a provision of the articles of incorporation as authorized by § 29-402.02(c); and

(2) An undertaking in the form of a record to repay any funds advanced if the individual is not entitled to mandatory indemnification under § 29-406.52

and it is ultimately determined under § 29-406.54 or § 29-406.55 that the individual has not met the relevant standard of conduct described in § 29-406.51.

(b) The undertaking required by subsection (a)(2) of this section shall be an unlimited general obligation of the director, but need not be secured and may be accepted without reference to the financial ability of the director to make repayment.

(c) Authorizations under this section shall be made:

(1) By the board of directors:

(A) If there are 2 or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom will constitute a quorum for that purpose, or by a majority of the members of a committee of 2 or more disinterested directors appointed by such a vote; or

(B) If there are fewer than 2 disinterested directors, by the vote necessary for action by the board in accordance with § 29-406.24(c), in which authorization directors who do not qualify as disinterested directors may participate; or

(2) By the members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.50, § 29-406.54, and § 29-406.58.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.54. Court-ordered indemnification and advance for expenses.

(a) A director who is a party to a proceeding because he or she is or was a director may apply for indemnification or an advance for expenses to the Superior Court. After receipt of an application and after giving any notice it considers necessary, the court shall order:

(1) Indemnification if the court determines that the director is entitled to mandatory indemnification under § 29-406.52;

(2) Indemnification or advance for expenses if the court determines that the director is entitled to indemnification or advance for expenses pursuant to a provision authorized by § 29-406.58(a); or

(3) Indemnification or advance for expenses if the court determines, in view of all the relevant circumstances, that it is fair and reasonable to:

(A) Indemnify the director; or

(B) Advance expenses to the director, even if the director has not met the relevant standard of conduct set forth in § 29-406.51(a), failed to comply with § 29-406.53, or was adjudged liable in a proceeding referred to in § 29-406.51(d)(1) or (d)(2), but if the director was adjudged so liable, his or her indemnification shall be limited to reasonable expenses incurred in connection with the proceeding.

(b) If the Superior Court determines that the director is entitled to indemnification under subsection (a)(1) of this section or to indemnification or advance for expenses under subsection (a)(2) of this section, it shall also order

the nonprofit corporation to pay the director's reasonable expenses incurred in connection with obtaining court-ordered indemnification or advance for expenses. If the court determines that the director is entitled to indemnification or advance for expenses under subsection (a)(3) of this section, it may also order the corporation to pay the director's reasonable expenses to obtain court-ordered indemnification or advance for expenses.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.51, § 29-406.53, and § 29-406.56.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.55. Determination and authorization of indemnification.

(a) A nonprofit corporation shall not indemnify a director under § 29-406.51 unless authorized for a specific proceeding after a determination has been made that indemnification of the director is permissible because the director has met the relevant standard of conduct set forth in § 29-406.51.

(b) The determination shall be made:

(1) If there are 2 or more disinterested directors, by a majority vote of all the disinterested directors, a majority of whom will constitute a quorum for that purpose, or by a majority of the members of a committee of 2 or more disinterested directors appointed by such a vote;

(2) By special legal counsel:

(A) Selected in the manner prescribed in paragraph (1) of this subsection; or

(B) If there are fewer than 2 disinterested directors, selected by the board of directors, in which selection directors who do not qualify as disinterested directors may participate; or

(3) By the members.

(c) Authorization of indemnification shall be made in the same manner as the determination that indemnification is permissible, except that if there are fewer than 2 disinterested directors or if the determination is made by special legal counsel, authorization of indemnification shall be made by those entitled under subsection (b)(2)(B) of this section to select special legal counsel.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.50, § 29-406.53, and § 29-406.58.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.56. Indemnification of officers.

(a) A nonprofit corporation may indemnify and advance expenses under this part to an officer of the corporation who is a party to a proceeding because he or she is or was an officer of the corporation:

(1) To the same extent as a director; and

(2) If he or she is an officer but not a director, to such further extent as

may be provided by the articles of incorporation, the bylaws, a resolution of the board of directors, or contract, except for:

(A) Liability in connection with a proceeding by or in the right of the corporation other than for reasonable expenses incurred in connection with the proceeding; or

(B) Liability arising out of conduct that constitutes:

(i) Receipt by the officer of a financial benefit to which the officer is not entitled;

(ii) An intentional infliction of harm on the corporation or the members; or

(iii) An intentional violation of criminal law.

(b) Subsection (a)(2) of this section shall apply to an officer who is also a director if the basis on which he or she is made a party to the proceeding is an act or omission solely as an officer.

(c) An officer of a corporation who is not a director shall be entitled to mandatory indemnification under § 29-406.52, and may apply to a court under § 29-406.54 for indemnification or an advance for expenses, in each case to the same extent to which a director may be entitled to indemnification or advance for expenses under those provisions.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.50. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-406.57. Insurance.

A nonprofit corporation may purchase insurance on behalf of an individual who is or was a director or officer of the corporation, or who, while a director or officer of the corporation, serves or served at the corporation's request as a director, officer, partner, trustee, employee, or agent of another domestic or foreign corporation, partnership, joint venture, trust, employee benefit plan, or other entity, against liability asserted against or incurred by the individual in that capacity or arising from the individual's status as a director or officer, whether or not the corporation would have power to indemnify or advance expenses to the individual against the same liability under this part.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-406.58. Variation of indemnification.

(a) A nonprofit corporation may, by a provision in its articles of incorporation or bylaws or in a resolution adopted or a contract approved by its board of directors or members, obligate itself in advance of the act or omission giving rise to a proceeding to provide indemnification as permitted by § 29-406.51 or advance funds to pay for or reimburse expenses as permitted by § 29-406.53.

An obligatory provision satisfies the requirements for authorization referred to in §§ 29-406.53(c) and 29-406.55(c). Any such provision that obligates the corporation to provide indemnification to the fullest extent permitted by law shall obligate the corporation to advance funds to pay for or reimburse expenses in accordance with § 29-406.53 to the fullest extent permitted by law, unless the provision specifically provides otherwise.

(b) Any provision pursuant to subsection (a) of this section shall not obligate the nonprofit corporation to indemnify or advance expenses to a director of a predecessor of the corporation, pertaining to conduct with respect to the predecessor, unless otherwise specifically provided. Any provision for indemnification or advance for expenses in the organic records, articles of incorporation, bylaws, or a resolution of the governors, board of directors, members or interest holders of a predecessor of the corporation in a fundamental transaction, or in a contract to which the predecessor is a party, existing at the time the fundamental transaction takes effect, shall be governed by:

- (1) Section 29-407.05(a)(2) in the case of a domestication;
- (2) Section 29-204.06(a)(3) in the case of a for-profit conversion;
- (3) Section 29-204.06(a)(3) in the case of a foreign for-profit domestication and conversion;
- (4) Section 29-204.06(a)(3) in the case of an entity conversion; or
- (5) Section 29-409.07(a)(4) in the case of a merger involving only nonprofit corporations, or § 29-202.06(a)(4) in the case of a merger involving another type of entity.

(c) A nonprofit corporation may, by a provision in its articles of incorporation or bylaws, limit any of the rights to indemnification or advance for expenses created by or pursuant to this part.

(d) This part shall not limit a nonprofit corporation's power to pay or reimburse expenses incurred by a director or an officer in connection with appearance as a witness in a proceeding at a time when the director or officer is not a party.

(e) A nonprofit corporation may indemnify, advance expenses to, or provide or maintain insurance on behalf of an employee, agent, or volunteer.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.54. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART F.

CONFLICTING INTEREST TRANSACTIONS.

§ 29-406.70. Conflicting interest transactions; voidability.

(a) A contract or transaction between a nonprofit corporation and one or more of its members, directors, members of a designated body, or officers or between a nonprofit corporation and any other entity in which one or more of

its directors, members of a designated body, or officers are directors or officers, hold a similar position, or have a financial interest, shall not be void or voidable solely for that reason, or solely because the member, director, member of a designated body, or officer is present at or participates in the meeting of the board of directors that authorizes the contract or transaction, or solely because his or their votes are counted for that purpose, if:

(1) The material facts as to the relationship or interest and as to the contract or transaction are disclosed or are known to the board of directors and the board in good faith authorizes the contract or transaction by the affirmative votes of a majority of the disinterested directors even though the disinterested directors are less than a quorum;

(2) The material facts as to the relationship or interest of the member, director, or officer and as to the contract or transaction are disclosed or are known to the members entitled to vote thereon, if any, and the contract or transaction is specifically approved in good faith by vote of those members; or

(3) The contract or transaction is fair as to the corporation as of the time it is authorized, approved, or ratified by the board of directors or the members.

(b) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board that authorizes a contract or transaction specified in subsection (a) of this section.

(c) This section shall be applicable except as otherwise restricted in the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-404.40, § 29-406.31, and § 29-406.80.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART G.

BUSINESS OPPORTUNITIES.

§ 29-406.80. Business opportunities.

(a) The taking advantage, directly or indirectly, by a director of a business opportunity shall not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the nonprofit corporation on the ground that the opportunity should have first been offered to the corporation, if before becoming legally obligated or entitled respecting the opportunity the director brings it to the attention of the corporation and action by the members or the directors disclaiming the corporation's interest in the opportunity is taken in compliance with the procedures set forth in § 29-406.70, as if the decision being made concerned a conflicting interest transaction.

(b) In any proceeding seeking equitable relief or other remedies, based upon an alleged improper taking advantage of a business opportunity by a director, the fact that the director did not employ the procedure described in subsection

(a) of this section before taking advantage of the opportunity shall not support an inference that the opportunity should have been first presented to the nonprofit corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation in the circumstances.

(c) For the purposes of this section, the term “director” includes a member of a designated body.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.31. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART H.

LIMITATIONS ON LIABILITY OF VOLUNTEERS AND EMPLOYEES.

§ 29-406.90. Immunity from civil liability for volunteer of corporation.

(a) For the purposes of this section, the term “volunteer” means an officer, director, trustee, or other person who performs services for the corporation and who does not receive compensation other than reimbursement of expenses for those services.

(b) Any person who serves as a volunteer of the corporation shall be immune from civil liability except if the injury or damage was a result of:

- (1) The willful misconduct of the volunteer;
- (2) A crime, unless the volunteer had reasonable cause to believe that the act was lawful;
- (3) A transaction that resulted in an improper personal benefit of money, property, or service to the volunteer; or
- (4) An act or omission that is not in good faith and is beyond the scope of authority of the corporation pursuant to this chapter or the corporate charter.

(c) This section shall apply only if the corporation maintains liability insurance with a limit of coverage of not less than \$200,000 per individual claim and \$500,000 per total claims that arise from the same occurrence. This subsection shall not apply to any corporation having annual total functional expenses, exclusive of grants and allocations, of less than \$100,000, and which is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(d) This section shall not exempt the corporation from liability for the conduct of the volunteer, but the corporation shall be liable only to the extent of the applicable limit of insurance coverage it maintains.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(14), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “1986” for “1954, August 26, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)” in (c); and substituted “shall not exempt” for “shall not be exempt” in (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-406.91. Limited liability for employee of corporation.

(a) For the purposes of this section, the term “employee” means a person regularly employed to perform a service for a salary or wages.

(b) Except as provided in subsections (c) and (d) of this section, an employee of the corporation shall not be held personally liable in damages for any acts or omissions in providing services or performing duties on behalf of the corporation in an amount greater than the amount of total compensation, other than reimbursement of expenses, received from the corporation for performing those services or duties during the 12 months immediately preceding the act or omission for which liability was imposed.

(c) The limitation of liability in this section shall not apply if the injury or damage was a result of:

(1) The willful misconduct of the employee;

(2) A crime, unless the employee had reasonable cause to believe that the act was lawful;

(3) A transaction that resulted in an improper personal benefit of money, property, or service to the employee;

(4) An act or omission that is not in good faith and is beyond the scope of authority of the corporation pursuant to this chapter or the articles of incorporation.

(d) The limitation of liability in this section does not apply to any licensed professional employee operating in his or her professional capacity.

(e) This section shall not exempt the corporation from liability, but the corporation is liable only to the extent of the applicable limit of insurance coverage it maintains.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter VII. Domestication.

§ 29-407.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Domesticated corporation” means the domesticating corporation as it continues in existence after a domestication.

(2) “Domesticating corporation” means the domestic nonprofit corporation that adopts a plan of domestication pursuant to § 29-407.03 or the foreign

nonprofit corporation that approves a domestication pursuant to its organic law.

(3) “Domestication” means a transaction authorized by this subchapter.

(4) “Surviving corporation” means the corporation as it continues in existence immediately after consummation of a domestication pursuant to this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-407.02. Domestication.

(a) A foreign nonprofit corporation may become a domestic nonprofit corporation only if the domestication is authorized by the law of the foreign jurisdiction.

(b) A domestic nonprofit corporation may become a foreign nonprofit corporation if the domestication is permitted by the laws of the foreign jurisdiction. Regardless of whether the laws of the foreign jurisdiction require the adoption of a plan of domestication, the domestication shall be approved by the adoption by the corporation of a plan of domestication in the manner provided in this subtitle [subchapter].

(c) The plan of domestication shall include:

(1) A statement of the jurisdiction in which the corporation is to be domesticated;

(2) The terms and conditions of the domestication;

(3) The manner and basis of canceling or reclassifying the memberships of the corporation following its domestication into memberships, obligations, rights to acquire memberships, cash, other property, or any combination of the foregoing; and

(4) Any desired amendments to the articles of incorporation or bylaws of the corporation following its domestication.

(d) The plan of domestication may also include a provision that the plan may be amended prior to filing the document required by the laws of the District or the other jurisdiction to consummate the domestication; provided, that subsequent to approval of the plan by the members, the plan shall not be amended without the approval of the members to change:

(1) The amount or kind of memberships, obligations, rights to acquire memberships, cash, or other property to be received by the members under the plan;

(2) The articles of incorporation as they will be in effect immediately following the domestication, except for changes permitted by § 29-408.05 or by comparable provisions of the laws of the other jurisdiction; or

(3) Any of the other terms or conditions of the plan if the change would adversely affect any of the members in any material respect.

(e) Terms of a plan of domestication may be made dependent upon facts objectively ascertainable outside the plan in accordance with § 29-401.04.

(f) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred or executed by a domestic nonprofit corporation before the effective date of this chapter contains a provision applying to a merger of the corporation and the document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-407.03. Action on plan of domestication.

In the case of a domestication of a domestic nonprofit corporation in a foreign jurisdiction:

(1) The plan of domestication shall be adopted by the board of directors.

(2) After adopting the plan of domestication, the board of directors shall submit the plan to the members for their approval if there are members entitled to vote on the plan. The board of directors shall also transmit to the members a recommendation that the members approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the members the basis for that determination.

(3) The board of directors may condition its submission of the plan of domestication to the members on any basis.

(4) If the approval of the members is to be given at a meeting, the corporation shall notify each member, whether or not entitled to vote, of the meeting of members at which the plan of domestication is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. The notice shall include or be accompanied by a copy of the articles of incorporation and bylaws as they will be in effect immediately after the domestication.

(5) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, the approval of the plan of domestication by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the plan, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(6) Separate voting by voting groups shall be required by each class of members that:

(A) Are to be reclassified under the plan of domestication into a different class of memberships, or into obligations, rights to acquire memberships, cash, other property, or any combination of the foregoing;

(B) Would be entitled to vote as a separate group on a provision of the plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-408.04; or

(C) Is entitled under the articles of incorporation or bylaws to vote as a voting group to approve an amendment of the articles.

(7) If any provision of the articles of incorporation, bylaws, or an agreement to which any of the directors, members of a designated body, or members are parties, adopted or entered into before the effective date of this chapter, applies to a merger of the corporation and that document does not refer to a domestication of the corporation, the provision shall be deemed to apply to a domestication of the corporation until such time as the provision is amended subsequent to that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-407.01. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-407.04. Articles of domestication.

(a) Articles of domestication shall be signed on behalf of the domesticating corporation by any officer or other duly authorized representative. The articles shall set forth:

(1) The name and jurisdiction of incorporation of the domesticating corporation;

(2) The name and jurisdiction of incorporation of the domesticated entity; and

(3) If the domesticating corporation is a domestic nonprofit corporation, a statement that the plan of domestication was approved in accordance with this subtitle [subchapter] or, if the domesticating corporation is a foreign nonprofit corporation, a statement that the domestication was approved in accordance with the law of its jurisdiction of incorporation.

(b) If the domesticated corporation is a domestic nonprofit corporation, the articles of domestication shall either contain all of the provisions that § 29-402.02(a) requires to be set forth in articles of incorporation and any other desired provisions that § 29-402.02(b) and (c) permits to be included in articles of incorporation, or must have attached articles of incorporation. In either case, provisions that would not be required to be included in restated articles of incorporation may be omitted, except that the name and address of the initial registered agent of the domesticated corporation shall be included. The name of the domesticated corporation shall satisfy the requirements of § 29-103.01.

(c) The articles of domestication shall be delivered to the Mayor for filing and take effect at the effective time provided in § 29-102.03.

(d) If the domesticating corporation is a registered foreign nonprofit corporation, its certificate of registration shall be canceled automatically on the effective date of its domestication.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(15), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered” for “qualified” in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-407.05. Effect of domestication.

(a) When a domestication becomes effective:

(1) The title to all real and personal property, both tangible and intangible, of the domesticating corporation shall remain in the domesticated corporation without reversion or impairment;

(2) The liabilities of the domesticating corporation shall remain the liabilities of the domesticated corporation;

(3) An action or proceeding pending against the domesticating corporation shall continue against the domesticated corporation as if the domestication had not occurred;

(4) The articles of domestication, or the articles of incorporation attached to the articles of domestication, shall constitute the articles of incorporation of a foreign corporation domesticating in the District;

(5) The memberships in the domesticating corporation shall be reclassified into memberships, obligations, rights to acquire memberships, or cash or other property in accordance with the terms of the domestication, and the members shall be entitled only to the rights provided by those terms; and

(6) The domesticating corporation shall be deemed to be:

(A) Incorporated under and subject to the organic law of the domesticated corporation for all purposes; and

(B) The same corporation without interruption as the domesticating corporation.

(b) The interest holder liability of a member in a foreign nonprofit corporation that is domesticated in the District shall be as follows:

(1) The domestication shall not discharge any interest holder liability under the laws of the foreign jurisdiction to the extent any such interest holder liability arose before the effective time of the articles of domestication.

(2) The member shall not have interest holder liability under the laws of the foreign jurisdiction for any debt, obligation, or liability of the corporation that arises after the effective time of the articles of domestication.

(3) The laws of the foreign jurisdiction shall continue to apply to the collection or discharge of any interest holder liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(4) The member has whatever rights of contribution from other members are provided by the laws of the foreign jurisdiction with respect to any interest holder liability preserved by paragraph (1) of this subsection, as if the domestication had not occurred.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.58.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-407.06. Abandonment of a domestication.

(a) Unless otherwise provided in a plan of domestication of a domestic nonprofit corporation, after the plan has been adopted and approved as required by this subtitle [subchapter], and at any time before the domestication has become effective, it may be abandoned by the board of directors without action by the members.

(b) If a domestication is abandoned under subsection (a) of this section after articles of domestication have been delivered to the Mayor for filing but before the domestication has become effective, a statement that the domestication has been abandoned in accordance with this section, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the domestication. The statement shall be effective upon filing and the domestication shall be abandoned and shall not become effective.

(c) If the domestication of a foreign nonprofit corporation in the District is abandoned in accordance with the laws of the foreign jurisdiction after articles of domestication have been delivered to the Mayor for filing, a statement that the domestication has been abandoned, signed by an officer or other duly authorized representative, shall be delivered to the Mayor for filing. The statement shall be effective upon filing and the domestication shall be abandoned and shall not become effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(16), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (b) and (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VIII. Amendment of Articles of Incorporation and Bylaws.

PART A.

AMENDMENT OF ARTICLES OF INCORPORATION.

§ 29-408.01. Authority to amend.

A nonprofit corporation may amend its articles of incorporation at any time to add or change a provision that is required or permitted in the articles as of

the effective date of the amendment or to delete a provision that is not required to be contained in the articles.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-408.02. Amendment before issuance of memberships.

If a membership corporation has not yet issued memberships, its board of directors, or its incorporators if it has no board of directors, may adopt one or more amendments to the articles of incorporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-408.03. Amendment of articles of membership corporation.

(a) An amendment to the articles of incorporation of a membership corporation shall be adopted in the following manner:

(1) Except as otherwise provided in paragraph (5) of this subsection, the proposed amendment shall be adopted by the board of directors.

(2) Except as otherwise provided in §§ 29-408.05, 29-408.07, and 29-408.08, a proposed amendment shall be submitted to the members entitled to vote for their approval.

(3) The board of directors shall transmit to the members a recommendation that the members approve the amendment, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors must transmit to the members the basis for that determination.

(4) The board of directors may condition its submission of the amendment to the members on any basis.

(5) Except as otherwise provided in the articles of incorporation or bylaws, an amendment may be proposed by 10% or more of the members entitled to vote on the amendment or by such greater or lesser number of members as is specified in the articles. Paragraphs (1), (3), and (4) of this section shall not apply to an amendment proposed by the members under this paragraph.

(6) If the amendment is required to be approved by the members, and the approval is to be given at a meeting, the corporation shall give notice to each member entitled to vote on the amendment of the meeting of members at which the amendment is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the amendment and shall contain or be accompanied by a copy of the amendment.

(7) Unless the articles of incorporation or bylaws, or the board of directors

acting pursuant to paragraph (4) of this subsection, requires a greater vote or a greater number of members to be present, the approval of an amendment requires the approval of the members at a meeting at which a quorum exists, and, if any class of members shall be entitled to vote as a separate group on the amendment, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(8) In addition to the adoption and approval of an amendment by the board of directors and members as required by this section, an amendment shall also be approved by a designated body whose approval is required by the articles of incorporation or bylaws.

(b) Unless the articles of incorporation provide otherwise, the board of directors of a membership corporation may adopt amendments to the corporation's articles of incorporation without approval of the members to:

(1) Extend the duration of the corporation if it was incorporated at a time when limited duration was required by law;

(2) Delete the names and addresses of the initial directors or members of a designated body;

(3) Change the information required by § 2-104.04;

(4) Change the corporation name by substituting or deleting the word "corporation", "incorporated", "company", "limited", or the abbreviation "corp.", "inc.", "co.", or "ltd.", for a similar word or abbreviation in the name; or

(5) Restate without change all of the then operative provisions of the articles.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.07. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-408.04. Voting on amendments by voting groups.

(a) Except as otherwise provided in the articles of incorporation or bylaws, if a nonprofit corporation has more than one class of members, the members of each class shall be entitled to vote as a separate voting group, if member voting is otherwise required by this chapter, on a proposed amendment to the articles of incorporation if the amendment would:

(1) Effect an exchange or reclassification of all or part of the memberships of the class into memberships of another class;

(2) Effect an exchange or reclassification, or create the right of exchange, of all or part of the memberships of another class into memberships of the class;

(3) Change the rights, preferences, or limitations of all or part of the memberships of the class in a manner different than the amendment would affect another class;

(4) Change the rights, preferences, or limitations of all or part of the memberships of the class by changing the rights, preferences, or limitations of another class;

(5) Increase or decrease the number of memberships authorized for that class;

(6) Increase the number of memberships authorized for another class; or

(7) Authorize a new class of memberships.

(b) If a class of members will be divided into 2 or more classes by an amendment to the articles of incorporation, the amendment shall be approved by a majority of the members of each class that will be created.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-407.03, § 29-408.07, § 29-408.22, and § 29-409.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-408.05. Amendment of articles of nonmembership corporation.

Except as otherwise provided in the articles of incorporation, the board of directors of a nonmembership corporation may adopt amendments to the corporation's articles. Except as otherwise provided in the articles of incorporation, an amendment adopted by the board of directors under this subsection shall also be approved:

(1) By a designated body whose approval is required by the articles of incorporation or bylaws;

(2) If the amendment changes or deletes a provision regarding the appointment of a director by persons other than the board, by those persons as if they constituted a voting group; and

(3) If the amendment changes or deletes a provision regarding the designation of a director, by the individual designated at the time as that director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-407.02, § 29-408.03, and § 29-409.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-408.06. Articles of amendment.

After an amendment to the articles of incorporation has been adopted and approved in the manner required by this chapter and by the articles of incorporation, the nonprofit corporation shall deliver to the Mayor, for filing, articles of amendment, which shall set forth:

(1) The name of the corporation;

(2) The text of the amendment adopted;

(3) If the amendment provides for an exchange, reclassification, or cancellation of memberships, provisions for implementing the amendment if not contained in the amendment itself, which may be made dependent upon facts objectively ascertainable outside the articles of amendment in accordance with § 29-401.04;

(4) The date of the amendment's adoption; and

(5) If the amendment:

(A) Was adopted by the incorporators, board of directors, or a designated body without member approval, a statement that the amendment was adopted by the incorporators or by the board of directors or designated body, as the case may be, and that member approval was not required; or

(B) Required approval by the members, a statement that the amendment was duly approved by the members in the manner required by this chapter and by the articles of incorporation and bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.07. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-408.07. Restated articles of incorporation.

(a) The board of directors of a nonprofit corporation may restate its articles of incorporation at any time, without approval by the members or any other person, to consolidate all amendments into a single document without substantive change.

(b) If restated articles of a membership corporation include one or more new amendments that require member approval, the amendments shall be adopted and approved as provided in §§ 29-408.03 and 29-408.04.

(c) A nonprofit corporation that restates its articles of incorporation shall deliver to the Mayor for filing articles of amendment under § 29-408.06 which include a statement that the articles of amendment are a restatement that consolidates all amendments into a single record.

(d) Duly adopted restated articles of incorporation shall supersede the original articles of incorporation and all amendments thereto.

(e) The Mayor shall certify restated articles of incorporation as the articles of incorporation currently in effect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-408.08. Amendment pursuant to reorganization.

(a) A nonprofit corporation's articles of incorporation may be amended without action by the board of directors, a designated body, or the members to carry out a plan of reorganization ordered or decreed by a court of competent jurisdiction under the authority of a law of the United States.

(b) An individual designated by the court shall deliver to the Mayor for filing articles of amendment setting forth:

(1) The name of the corporation;

(2) The text of each amendment approved by the court;

(3) The date of the court's order or decree approving the articles of amendment;

(4) The title of the reorganization proceeding in which the order or decree was entered; and

(5) A statement that the court had jurisdiction of the proceeding under federal statute.

(c) This section shall not apply after entry of a final decree in the reorganization proceeding even though the court retains jurisdiction of the proceeding for limited purposes unrelated to consummation of the reorganization plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-408.09. Effect of articles amendment.

(a) Except as otherwise provided in subsections (b), (c), and (d) of this section, an amendment to the articles of incorporation does not affect a cause of action existing against or in favor of the nonprofit corporation, a proceeding to which the corporation is a party, or the existing rights of persons other than members of the corporation or persons referred to in the articles. An amendment changing a corporation's name shall not abate a proceeding brought by or against the corporation in its former name.

(b) Property held in trust by a nonprofit corporation or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by an amendment of its articles of incorporation unless the corporation obtains an appropriate order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(c) Unless a nonprofit corporation obtains an appropriate order of the Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, an amendment of its articles of incorporation shall not affect:

(1) Any restriction imposed upon property held by the corporation by virtue of any trust under which it holds that property; or

(2) The existing rights of persons other than its members.

(d) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with an amendment of the articles of incorporation unless the person is itself a charitable corporation or an unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

AMENDMENT OF BYLAWS.

§ 29-408.20. Amendment by board of directors or members.

(a) Except as otherwise provided in the articles of incorporation or bylaws, the members of a membership corporation may amend or repeal the corporation's bylaws.

(b) The board of directors of a membership corporation or nonmembership corporation may amend or repeal the corporation's bylaws, unless the articles of incorporation or bylaws or § 29-408.21 or § 29-408.22 reserve that power exclusively to the members or a designated body in whole or part.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-408.21. Bylaw increasing quorum or voting requirement for board of directors or designated body.

(a) A bylaw that increases a quorum or voting requirement for the board of directors or a designated body may be amended or repealed:

(1) If originally adopted by the members, only by the members, unless the bylaws otherwise provide;

(2) If adopted by the board of directors or designated body, either by the members or by the board of directors or designated body.

(b) A bylaw adopted or amended by the members that increases a quorum or voting requirement for the board of directors or a designated body may provide that it can be amended or repealed only by a specified vote of either the members or the board of directors or designated body.

(c) Action by the board of directors or a designated body under subsection (a) of this section to amend or repeal a bylaw that changes the quorum or voting requirement for the board of directors or a designated body shall meet the same quorum requirement and be adopted by the same vote required to take action under the quorum and voting requirement then in effect or proposed to be adopted, whichever is greater.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.20. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-408.22. Bylaw amendments requiring member approval.

(a) Except as otherwise provided in the articles of incorporation or bylaws, the board of directors or designated body of a membership corporation that has one or more members at the time shall not adopt or amend a bylaw under:

(1) Section 29-404.10 providing that some of the members have different rights or obligations than other members with respect to voting, dissolution, transfer of memberships or other matters;

(2) Section 29-404.13 levying dues, assessments, or fees on some or all of the members;

(3) Section 29-404.21 relating to the termination or suspension of members;

(4) Section 29-404.22 authorizing the purchase of memberships;

(5) Section 29-406.08(a):

(A) Requiring cause to remove a director; or

(B) Specifying what constitutes cause to remove a director;

(6) Section 29-406.08(e) relating to the removal of a director who is designated in a manner other than election or appointment; or

(7) Section 29-406.12.

(b) The board of directors or designated body of a membership corporation shall not amend the articles of incorporation or bylaws to vary the application of subsection (a) of this section to the corporation.

(c) If a nonprofit corporation has more than one class of members, the members of a class shall be entitled to vote as a separate voting group on an amendment to the bylaws that:

(1) Is described in subsection (a) of this subsection if the amendment would affect the members of that class differently than the members of another class; or

(2) Has any of the effects described in § 29-408.04.

(d) If a class of members will be divided into 2 or more classes by an amendment to the bylaws, the amendment shall be approved by a majority of the members of each class that will be created.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-408.20. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-408.23. Effect of bylaw amendment.

(a) Property held in trust by a nonprofit corporation or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by an amendment of its bylaws unless the corporation obtains an appropriate order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(b) Unless a nonprofit corporation obtains an appropriate order of the

Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, an amendment of its bylaws shall not affect:

(1) Any restriction imposed upon property held by the corporation by virtue of any trust under which it holds that property; or

(2) The existing rights of persons other than its members.

(c) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with an amendment of the bylaws unless the person is itself a charitable corporation or an unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.

SPECIAL RIGHTS.

§ 29-408.40. Approval by third persons.

(a) The articles of incorporation may require that an amendment to the articles be approved in the form of a record by a specified person or group of persons in addition to the board of directors and members.

(b) The articles of incorporation or bylaws may require that an amendment to the bylaws be approved in the form of a record by a specified person or group of persons in addition to the board of directors and members.

(c) A requirement in the articles of incorporation or bylaws described in subsection (a) or (b) of this section shall only be amended with the approval in the form of a record of the specified person or group of persons.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-409.04 and § 29-410.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

Subchapter IX. Mergers and Membership Exchanges.

§ 29-409.01. Preliminary provisions and restrictions.

(a) For the purposes of this subchapter, the term:

(1) “Exchanging entity” means the domestic or foreign nonprofit corporation or eligible entity in which all of one or more classes of memberships or classes or series of eligible interests are to be acquired in a membership exchange.

(2) "Membership exchange" means a transaction pursuant to § 29-409.03.

(3) "Merger" means a transaction pursuant to § 29-409.02.

(4) "Party to a merger" or "party to a membership exchange" means any domestic or foreign nonprofit corporation or eligible entity that:

(A) Will merge under a plan of merger;

(B) Will acquire memberships or eligible interests of another corporation or an eligible entity in a membership exchange; or

(C) Is an exchanging entity.

(5) "Survivor" in a merger means the corporation or eligible entity into which one or more other corporations or eligible entities are merged. A survivor of a merger may preexist the merger or be created by the merger.

(b) Property held in trust by an entity or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by a transaction under this subchapter unless the entity obtains an appropriate order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(c) Unless an entity that is a party to a transaction under this subchapter obtains an appropriate order of the Superior Court under the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets, the transaction shall not affect:

(1) Any restriction imposed upon the entity by its organic documents that may not be amended by its governors, members, or interest holders;

(2) Any restriction imposed upon property held by the entity by virtue of any trust under which it holds that property; or

(3) The existing rights of persons other than members, shareholders, or interest holders of the entity.

(d) A person that is a member, interest holder, or otherwise affiliated with a charitable corporation or an unincorporated entity with a charitable purpose shall not receive a direct or indirect financial benefit in connection with a transaction under this subchapter to which the charitable corporation or unincorporated entity is a party unless the person is itself a charitable corporation or unincorporated entity with a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-409.07. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-409.02. Merger.

(a) One or more domestic nonprofit corporations may merge with one or more domestic or foreign nonprofit corporations pursuant to a plan of merger or 2 or more foreign nonprofit corporations or domestic nonprofit corporations may merge into a new domestic nonprofit corporation to be created in the merger in the manner provided in this subchapter.

(b) A foreign nonprofit corporation may be a party to a merger with a

domestic nonprofit corporation, or may be created by the terms of the plan of merger, only if the merger is permitted by the organic law of the corporation.

(c) If the organic law of a domestic eligible entity shall not prohibit a merger with a nonprofit corporation but does not provide procedures for the approval of such a merger, a plan of merger may be adopted and approved, and the merger may be effectuated, in accordance with the procedures in this subchapter.

(d) The plan of merger shall be in the form of a record and include:

(1) The name of each domestic or foreign nonprofit corporation that will merge and the name of the domestic or foreign nonprofit corporation that will be the survivor of the merger;

(2) The terms and conditions of the merger;

(3) The manner and basis of converting the memberships of each merging domestic or foreign nonprofit membership corporation into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing;

(4) The articles of incorporation and bylaws of any corporation to be created by the merger, or if a new corporation is not to be created by the merger, any amendments to the survivor's articles or bylaws or organic records; and

(5) Any other provisions relating to the merger that the parties desire be included in the plan of merger.

(e) The plan of merger may also include a provision that the plan may be amended prior to filing articles of merger, but if the members of a domestic corporation that is a party to the merger are required or permitted to vote on the plan, the plan shall provide that subsequent to approval of the plan by such members the plan shall not be amended to change:

(1) The amount or kind of memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; or other property or other consideration to be received by the members of or owners of eligible interests in any party to the merger;

(2) The articles of incorporation or bylaws of any corporation, or the organic records of any unincorporated entity, that will survive or be created as a result of the merger, except for changes permitted by § 29-408.05 or by comparable provisions of the organic law of any such foreign nonprofit or business corporation or domestic or foreign unincorporated entity; or

(3) Any of the other terms or conditions of the plan, if the change would adversely affect such members in any material respect.

(f) Terms of a plan of merger may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-401.04.

(g) A merger in which a nonprofit corporation and another form of entity are parties is governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-409.01. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-409.03. Membership exchange.

(a) Through a membership exchange:

(1) A domestic nonprofit corporation may acquire, pursuant to a plan of membership exchange, all of the memberships of one or more classes of another domestic or foreign nonprofit corporation, or all of the eligible interests of one or more classes or series of eligible interests of a domestic or foreign nonprofit corporation, in exchange for memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing; and

(2) All of the memberships of one or more classes of a domestic nonprofit corporation may be acquired by another domestic or foreign nonprofit corporation or eligible entity, in exchange for memberships, eligible interests, securities, obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing, pursuant to a plan of membership exchange.

(b) A foreign nonprofit corporation or eligible entity may be a party to a membership exchange only if the membership exchange is permitted by the organic law of the corporation or eligible entity.

(c) If the organic law of a domestic eligible entity does not prohibit a membership exchange with a nonprofit corporation but does not provide procedures for the approval of an exchange of interests similar to a membership exchange, a plan of membership exchange may be adopted and approved, and the membership exchange effectuated, in accordance with the procedures, if any, for a merger. If the organic law of a domestic eligible entity does not provide procedures for either an interest exchange or a merger, a plan of membership exchange may be adopted and approved, and the membership exchange effectuated, in accordance with the procedures in this subchapter. For the purposes of applying this subchapter:

(1) The eligible entity, its interest holders, eligible interests, and organic documents shall be deemed to be a domestic nonprofit corporation, members, memberships, and articles of incorporation and bylaws, respectively, as the context may require; and

(2) If the activities and affairs of the eligible entity are managed by a group of persons that is not identical to the interest holders, that group shall be deemed to be the board of directors.

(d) The plan of membership exchange shall be in the form of a record and include:

(1) The name of each domestic or foreign nonprofit corporation or eligible entity whose memberships or eligible interests will be acquired and the name of the corporation or eligible entity that will acquire those memberships or eligible interests;

(2) The terms and conditions of the membership exchange;

(3) The manner and basis of exchanging the memberships of a corporation or the eligible interests in an eligible entity whose memberships or eligible interests will be acquired under the membership exchange into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing;

(4) Any changes desired to be made in the organic records of the exchanging entity; and

(5) Any other provisions relating to the membership exchange that the parties desire be included in the plan of exchange.

(e) The plan of membership exchange may also include a provision that the plan may be amended prior to filing articles of membership exchange, but if the members of a domestic nonprofit corporation that is a party to the membership exchange are required or permitted to vote on the plan, the plan shall provide that subsequent to approval of the plan by such members the plan shall not be amended to change:

(1) The amount or kind of memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; or other property or other consideration to be issued by the domestic nonprofit corporation or to be received by its members, as the case may be; or

(2) Any of the other terms or conditions of the plan if the change would adversely affect such members in any material respect.

(f) Terms of a plan of membership exchange may be made dependent on facts objectively ascertainable outside the plan in accordance with § 29-401.04.

(g) This section shall not limit the power of a domestic nonprofit corporation to acquire memberships in another corporation or eligible interests in an eligible entity in a transaction other than a membership exchange.

(h) If any debt security, note, or similar evidence of indebtedness for money borrowed, whether secured or unsecured, or a contract of any kind, issued, incurred, or signed by a domestic exchanging entity before the effective date of this chapter contains a provision applying to a merger or change in control of the exchanging entity that does not refer to a membership exchange, the provision shall be deemed to apply to a membership exchange of the exchanging entity until such time as the provision is amended subsequent to that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(17), 59 DCR 13171.)

Section references. — This section is referenced in § 29-409.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (c)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-409.04. Action on a plan of merger or membership exchange.

In the case of a nonprofit corporation that is a party to a merger or membership exchange:

(1) The plan of merger or membership exchange shall be adopted by the board of directors.

(2) Except as otherwise provided in paragraph (8) of this section, § 29-409.05, or the articles of incorporation or bylaws, after adopting the plan of merger or membership exchange, the board of directors shall submit the plan to the members entitled to vote on the plan for their approval. The board of directors shall also transmit to the members a recommendation that the members approve the plan, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors must transmit to the members the basis for that determination.

(3) The board of directors may condition its submission of the plan of merger or membership exchange to the members on any basis.

(4) If the plan of merger or membership exchange is required to be approved by the members, and if the approval is to be given at a meeting, the nonprofit corporation shall give notice to each member entitled to vote on the merger or membership exchange of the meeting of members at which the plan is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the plan and shall contain or be accompanied by a copy or summary of the plan. If the corporation is to be merged into an existing corporation or eligible entity, the notice shall also include or be accompanied by a copy or summary of the articles of incorporation and bylaws or organic records of that corporation or eligible entity. If the corporation is to be merged into a corporation or eligible entity that is to be created pursuant to the merger, the notice shall include or be accompanied by a copy or a summary of the articles of incorporation and bylaws or organic records of the new corporation or eligible entity.

(5) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to paragraph (3) of this subsection, requires a greater vote or a greater number of votes to be present, the approval of the plan of merger or membership exchange by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of memberships is entitled to vote as a separate group on the plan of merger or membership exchange, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(6) Separate voting by voting groups shall be required:

(A) On a plan of merger, by each class of memberships that:

(i) Are to be converted into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing; or

(ii) Would be entitled to vote as a separate group on a provision in the

plan that, if contained in a proposed amendment to articles of incorporation, would require action by separate voting groups under § 29-408.04;

(B) On a plan of membership exchange, by each class of memberships included in the exchange, with each class constituting a separate voting group; and

(C) On a plan of merger or membership exchange, if the voting group is entitled under the articles of incorporation to vote as a voting group to approve a plan of merger or membership exchange.

(7) If as a result of a merger or membership exchange one or more members of a domestic nonprofit corporation would become subject to owner liability for the debts, obligations, or liabilities of any other person or entity, approval of the plan of merger or membership exchange shall require the signature, by each such member, of a separate record consenting to become subject to such owner liability.

(8) If a domestic nonprofit corporation that is a party to a merger does not have any members entitled to vote thereon, a plan of merger shall be deemed adopted by the corporation when it has been adopted by the board of directors pursuant to paragraph (1) of this subsection.

(9) In addition to the adoption and approval of the plan of merger by the board of directors and members as required by this section, the plan of merger shall also be approved in the form of a record by any person or group of persons whose approval is required under § 29-408.40 to amend the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-409.05. Merger with controlled corporation or between controlled corporations.

(a) A domestic or foreign entity that holds a membership in a domestic nonprofit corporation that carries at least 80% of the voting power of each class of membership of the controlled corporation that has voting power may merge the controlled corporation into itself or into another such controlled corporation, or merge itself into the controlled corporation, without the approval of the board of directors, designated body or members of the controlled corporation, unless the articles of incorporation or bylaws of any of the corporations or the organic records of a controlling unincorporated entity otherwise provide.

(b) If, under subsection (a) of this section, approval of a merger by the members of a controlled corporation is not required, the controlling entity shall, within 10 days after the effective date of the merger, notify each of the members of the controlled corporation that the merger has become effective.

(c) Except as otherwise provided in subsections (a) and (b) of this subsection, a merger between a controlling entity and a controlled corporation shall be governed by the provisions of this subchapter applicable to mergers generally.

(d) A merger pursuant to this section shall also be approved in a record by

a designated body whose approval is required to amend the articles of incorporation of the controlled corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-409.04. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-409.06. Articles of merger or membership exchange.

(a) After a plan of merger or membership exchange has been adopted and approved as required by this chapter, articles of merger or membership exchange shall be signed on behalf of each party to the merger or membership exchange by any officer or other duly authorized representative. The articles shall set forth:

(1) The names of the parties to the merger or membership exchange;

(2) If the articles of incorporation of the survivor of a merger or an exchanging nonprofit corporation are amended, or if a new corporation is created as a result of a merger, the amendments to the articles of incorporation of the survivor or exchanging corporation or the articles of incorporation of the new corporation;

(3) If the plan of merger or membership exchange required approval by the members of a domestic nonprofit corporation that was a party to the merger or membership exchange, a statement that the plan was duly approved by the members and, if voting by any separate voting group was required, by each such separate voting group, in the manner required by this chapter and the articles of incorporation or bylaws;

(4) If the plan of merger or membership exchange did not require approval by the members of a domestic nonprofit corporation that was a party to the merger or membership exchange, a statement to that effect; and

(5) As to each foreign nonprofit corporation or eligible entity that was a party to the merger or membership exchange, a statement that the participation of the foreign corporation or eligible entity was duly authorized as required by the organic law of the corporation or eligible entity.

(b) Terms of articles of merger or membership exchange may be made dependent on facts objectively ascertainable outside the articles in accordance with § 29-401.04.

(c) Articles of merger or membership exchange shall be delivered to the Mayor for filing by the survivor of the merger or the acquiring corporation or eligible entity in a membership exchange and take effect at the effective time provided in § 29-102.03. Articles of merger or membership exchange filed under this section may be combined with any filing required under the organic law of any domestic eligible entity involved in the transaction if the combined filing satisfies the requirements of both this section and the other organic law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-409.07. Effect of merger or membership exchange.

(a) Subject to § 29-409.01(b), (c), and (d), when a merger becomes effective:

(1) The domestic or foreign nonprofit corporation or eligible entity that is designated in the plan of merger as the survivor shall continue or come into existence, as the case may be;

(2) The separate existence of every domestic or foreign nonprofit corporation or eligible entity that is merged into the survivor shall cease;

(3) All property owned by, and every contract and other right possessed by, each domestic or foreign nonprofit corporation or eligible entity that merges into the survivor shall be vested in the survivor without reversion or impairment;

(4) All liabilities of each domestic or foreign nonprofit corporation or eligible entity that is merged into the survivor shall be vested in the survivor;

(5) The name of the survivor may, but need not be, substituted in any pending proceeding for the name of any party to the merger whose separate existence ceased in the merger;

(6) The articles of incorporation and bylaws or organic records of the survivor shall be amended to the extent provided in the plan of merger;

(7) The articles of incorporation and bylaws or organic records of a survivor that is created by the merger shall become effective; and

(8) The memberships of each corporation that is a party to the merger, and the eligible interests in an eligible entity that is a party to a merger, that are to be converted under the plan of merger into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing are converted.

(b) Subject to § 29-409.01(b), (c), and (d), when a membership exchange becomes effective:

(1) The memberships or eligible interests in the exchanging entity that are to be exchanged under the plan of membership exchange into memberships, eligible interests, securities, or obligations; rights to acquire memberships, eligible interests, securities, or obligations; cash; other property or other consideration; or any combination of the foregoing are exchanged; and

(2) The articles of incorporation and bylaws or organic records of the exchanging entity shall be amended to the extent provided in the plan of membership exchange.

(c) A person that becomes subject to owner liability for some or all of the debts, obligations, or liabilities of any entity as a result of a merger or membership exchange has owner liability only to the extent provided in the organic law of the entity and only for those debts, obligations, and liabilities that arise after the effective time of the articles of merger or membership exchange.

(d) The effect of a merger or membership exchange on the owner liability of

a person that had owner liability for some or all of the debts, obligations, or liabilities of a party to the merger or membership exchange shall be as follows:

(1) The merger or membership exchange shall not discharge any owner liability under the organic law of the entity in which the person was a member, shareholder, or interest holder to the extent any such owner liability arose before the effective time of the articles of merger or membership exchange.

(2) The person shall not have owner liability under the organic law of the entity in which the person was a member, shareholder, or interest holder prior to the merger or membership exchange for any debt, obligation, or liability that arises after the effective time of the articles of merger or membership exchange.

(3) The organic law of any entity for which the person had owner liability before the merger or membership exchange shall continue to apply to the collection or discharge of any owner liability preserved by paragraph (1) of this subsection, as if the merger or membership exchange had not occurred.

(4) The person has whatever rights of contribution from other persons are provided by the organic law of the entity for which the person had owner liability with respect to any owner liability preserved by paragraph (1) of this subsection, as if the merger or membership exchange had not occurred.

(e) A devise, bequest, gift, grant, or promise contained in a will or other instrument, in trust or otherwise, made before or after a merger, to or for any of the parties to the merger, shall inure to the survivor, subject to the express terms of the will or other instrument.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.58. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-409.08. Abandonment of a merger or membership exchange.

(a) Unless otherwise provided in a plan of merger or membership exchange or in the organic law of a foreign nonprofit corporation that is a party to a merger or a membership exchange, after the plan has been adopted and approved as required by this subchapter, and at any time before the merger or membership exchange has become effective, it may be abandoned by a domestic nonprofit corporation that is a party thereto without action by its members, in accordance with any procedures set forth in the plan of merger or membership exchange or, if no such procedures are set forth in the plan, in the manner determined by the board of directors, subject to any contractual rights of other parties to the merger or membership exchange.

(b) If a merger or membership exchange is abandoned under subsection (a) of this section after articles of merger or membership exchange have been delivered to the Mayor for filing but before the merger or membership exchange has become effective, a statement that the merger or membership exchange has been abandoned in accordance with this section, executed on behalf of a party to the merger or membership exchange by an officer or other

duly authorized representative, shall be delivered to the Mayor for filing prior to the effective date of the merger or membership exchange. Upon filing, the statement shall be effective and the merger or membership exchange shall be deemed abandoned and shall not become effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(18), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter X. Disposition of Assets.

§ 29-410.01. Disposition of assets not requiring member approval.

Approval of the members of a nonprofit corporation shall not be required, unless the articles of incorporation or bylaws otherwise provide, to:

(1) Sell, lease, exchange, or otherwise dispose of any or all of the corporation’s assets:

(A) In the usual and regular course of its activities; or

(B) If the corporation and its consolidated subsidiaries retain an activity that represented or was supported by at least 33% of total assets at the end of the most recently completed fiscal year;

(2) Mortgage, pledge, dedicate to the repayment of indebtedness, whether with or without recourse, or otherwise encumber any or all of the corporation’s assets, whether or not in the usual and regular course of business its [sic] activities; or

(3) Transfer any or all of the corporation’s assets to one or more corporations or other entities all of the memberships or interests of which are owned by the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-410.02 and § 29-410.03.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

§ 29-410.02. Member approval of certain dispositions.

(a) Except as otherwise provided in the articles of incorporation or bylaws, a sale, lease, exchange, or other disposition of assets, other than a disposition described in § 29-410.01, shall require approval of the nonprofit corporation’s members.

(b) A disposition that requires approval of the members under subsection (a) of this section shall be initiated by a resolution by the board of directors

authorizing the disposition. After adoption of the resolution, the board of directors shall submit the proposed disposition to the members for their approval. The board of directors shall also transmit to the members a recommendation that the members approve the proposed disposition, unless the board of directors makes a determination that because of conflicts of interest or other special circumstances, it should not make such a recommendation, in which case the board of directors shall transmit to the members the basis for that determination.

(c) The board of directors may condition its submission of a disposition to the members under subsection (b) of this section on any basis.

(d) If a disposition is required to be approved by the members under subsection (a) of this section, and if the approval is to be given at a meeting, the nonprofit corporation shall give notice to each member, whether or not entitled to vote, of the meeting of members at which the disposition is to be submitted for approval. The notice shall state that the purpose, or one of the purposes, of the meeting is to consider the disposition and shall contain a description of the disposition, including the terms and conditions thereof and the consideration to be received by the corporation.

(e) Unless the articles of incorporation or bylaws, or the board of directors acting pursuant to subsection (c) of this section, requires a greater vote, or a greater number of votes to be present, the approval of a disposition by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the disposition, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(f) After a disposition has been approved by the members under subsection (e) of this section, and at any time before the disposition has been consummated, it may be abandoned by the nonprofit corporation without action by the members, subject to any contractual rights of other parties to the disposition.

(g) A disposition of assets in the course of dissolution under subchapter XII of this chapter shall not be governed by this section.

(h) The assets of a direct or indirect consolidated subsidiary shall be deemed the assets of the parent nonprofit corporation for the purposes of this section.

(i) In addition to the approval of a disposition of assets by the board of directors and members as required by this section, the disposition shall also be approved in the form of a record by any person or group of persons whose approval is required under § 29-408.40 to amend the articles of incorporation or bylaws.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-410.03. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-410.03. Restrictions on dispositions of assets.

(a) Property held in trust or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by a transaction described in § 29-

410.01 or § 29-410.02 unless the nonprofit corporation obtains an appropriate order from the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(b) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with a disposition of assets unless the person is a charitable corporation or an unincorporated entity that has a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter XI. Derivative Proceedings.

§ 29-411.01. Definition.

For the purposes of this subchapter, the term “derivative proceeding” means a civil action in the right of a domestic nonprofit corporation or, to the extent provided in § 29-411.08, in the right of a foreign nonprofit corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-411.02. Standing.

(a) A derivative proceeding may be brought in the Superior Court by:

- (1) A member or members having 5% or more of the voting power, or by 50 members, whichever is less; or
- (2) Any director or member of a designated body.

(b) The plaintiff in a derivative proceeding shall be a member, director, or member of a designated body at the time of bringing the proceeding. A plaintiff that is a member shall also have been a member at the time of any action complained of in the derivative proceeding.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-411.07.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

Plaintiffs did not have standing to bring a derivative action on nonprofit corporation's behalf against individuals who were corporation's

directors and allegedly engaged in ultra vires acts, even though the District of Columbia Nonprofit Corporation Act provided that a challenge to a corporation's power to act could be

brought the corporation through a legal representative; plaintiffs were not current officers or directors of corporation, even assuming that "legal representative" could be an officer or a director, and were not members of corporation, which was formed as a non-member corpora-

tion, and it did not appear that plaintiffs complied with the procedural requirements for asserting a derivative claim. The Federation for World Peace and Unification International, et al. v. Moon, et al., 140 WLR 1605 (Super. Ct. 2012).

§ 29-411.03. Demand.

A person shall not commence a derivative proceeding until:

(1) A demand in the form of a record has been delivered to the nonprofit corporation to take suitable action; and

(2) Ninety days have expired from the date the demand was effective unless:

(A) The person has earlier been notified that the demand has been rejected by the corporation; or

(B) Irreparable injury to the corporation would result by waiting for the expiration of the 90-day period.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-411.04. Stay of proceedings.

If the nonprofit corporation commences an inquiry into the allegations made in the demand or complaint, the Superior Court may stay any derivative proceeding for such period as the court considers appropriate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-411.08. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-411.05. Dismissal.

(a) The Superior Court shall dismiss a derivative proceeding on motion by the nonprofit corporation if one of the groups specified in subsection (b) or (e) of this section has determined in good faith after conducting a reasonable inquiry upon which its conclusions are based that the maintenance of the derivative proceeding is not in the best interests of the corporation.

(b) Unless a panel is appointed pursuant to subsection (e) of this section, the determination in subsection (a) of this section shall be made by a majority vote of:

(1) Independent directors present at a meeting of the board of directors if the independent directors constitute a quorum; or

(2) A committee consisting of 2 or more independent directors appointed by majority vote of independent directors present at a meeting of the board of directors, whether or not such independent directors constituted a quorum.

(c) If a derivative proceeding is commenced after a determination has been

made rejecting a demand by a member, the complaint shall allege with particularity facts establishing that:

(1) A majority of the board of directors did not consist of independent directors at the time the determination was made; or

(2) The requirements of subsection (a) of this section have not been met.

(d) If a majority of the board of directors does not consist of independent directors at the time the determination is made, the nonprofit corporation shall have the burden of proving that the requirements of subsection (a) of this section have been met. If a majority of the board of directors consists of independent directors at the time the determination is made, the plaintiff shall have the burden of proving that the requirements of subsection (a) of this section have not been met.

(e) The Superior Court may appoint a panel of one or more independent persons upon motion by the nonprofit corporation to make a determination whether the maintenance of the derivative proceeding is in the best interests of the corporation. In such case, the plaintiff has the burden of proving that the requirements of subsection (a) of this section have not been met.

(f) A person is independent for purposes of this section if the person does not have:

(1) A material interest in the outcome of the proceeding; or

(2) A material relationship with a person that has such an interest.

(g) None of the following by itself causes a director to be considered not independent for purposes of this section:

(1) The nomination, election, or appointment of the director by persons that are defendants in the derivative proceeding or against whom action is demanded;

(2) The naming of the director as a defendant in the derivative proceeding or as a person against whom action is demanded; or

(3) The approval by the director of the act being challenged in the derivative proceeding or demand if the act resulted in no personal benefit to the director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-411.06. Discontinuance or settlement.

A derivative proceeding shall not be discontinued or settled without the Superior Court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interests of the members or a class of members of the nonprofit corporation, the court shall direct that notice be given to the members affected.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-411.08. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-411.07. Security for costs; payment of expenses.

(a) In any derivative proceeding brought under § 29-411.02(a), the nonprofit corporation shall be entitled at any stage of the proceeding to seek an order requiring the plaintiffs to give security for reasonable expenses, including attorney fees and expenses, that may be incurred by the corporation in connection with the proceeding, to which security the corporation may have recourse in such amount as the Superior Court determines upon termination of the proceeding. The amount of security may be increased or decreased in the discretion of the court upon a showing that the security provided has or may become inadequate or excessive. Security may be denied or limited in the discretion of the court upon a preliminary showing, by application and upon such types of proof as may be required by the court, establishing prima facie that the requirement of full or partial security would impose undue hardship on plaintiffs and serious injustice would result.

(b) On termination of the derivative proceeding the Superior Court may order:

(1) The nonprofit corporation to pay the plaintiff's reasonable expenses, including attorneys' fees, incurred in the proceeding if it finds that the proceeding has resulted in a substantial benefit to the corporation;

(2) The plaintiff to pay any defendant's reasonable expenses, including attorneys' fees, incurred in defending the proceeding if it finds that the proceeding was commenced or maintained without reasonable cause or for an improper purpose; or

(3) A party to pay an opposing party's reasonable expenses, including attorneys' fees, incurred because of the filing of a pleading, motion, or other paper, if it finds that the pleading, motion, or other paper was not well grounded in fact, after reasonable inquiry, or warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and was interposed for an improper purpose, such as to harass or cause unnecessary delay or needless increase in the cost of litigation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-411.08. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-411.08. Applicability to foreign corporations.

In any derivative proceeding in the right of a foreign nonprofit corporation, the matters covered by this subchapter shall be governed by the laws of the jurisdiction of incorporation of the foreign corporation, except for §§ 29-411.04, 29-411.06, and 29-411.07.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-411.01. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-411.09. Notice to Attorney General.

The plaintiff in a derivative proceeding shall notify the Attorney General for the District of Columbia within 10 days after commencing the proceeding if it involves a charitable corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter XII. Dissolution.

PART A.

VOLUNTARY DISSOLUTION.

§ 29-412.01. Dissolution by incorporators or directors.

A majority of the incorporators or directors of a nonprofit corporation that has not commenced activity, or of a membership corporation that has not admitted any members, may dissolve the corporation by delivering to the Mayor for filing articles of dissolution that set forth:

- (1) The name of the corporation;
- (2) The date of its incorporation;
- (3)(A) That the corporation has not commenced activity; or
(B) That the corporation is a membership corporation and has not admitted any members;
- (4) That no debt of the corporation remains unpaid;
- (5) That, except as otherwise provided in the articles of incorporation or bylaws, the net assets of the corporation remaining after winding up have been distributed to the members, if members were admitted; and
- (6) That a majority of the incorporators or directors authorized the dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.02. Approval of dissolution.

(a) The board of directors of a membership corporation may propose dissolution for submission to the members.

(b) For a proposal to dissolve to be adopted:

(1) The board of directors shall recommend dissolution to the members unless the board of directors determines that because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the members; and

(2) The members entitled to vote must approve the proposal to dissolve as provided in subsection (e) of this section.

(c) The board of directors may condition its submission of the proposal for dissolution on any basis.

(d) The nonprofit corporation shall give notice to each member, whether or not entitled to vote, of the proposed meeting of members. The notice shall also state:

(1) That the purpose, or one of the purposes, of the meeting is to consider dissolving the corporation; and

(2) How the assets of the corporation will be distributed after all creditors have been paid or how the distribution of assets will be determined.

(e) Unless the articles of incorporation, the bylaws, or the board of directors acting pursuant to subsection (c) of this section, requires a greater vote or a greater number of members to be present, the adoption of the proposal to dissolve by the members shall require the approval of the members at a meeting at which a quorum exists, and, if any class of members is entitled to vote as a separate group on the proposal, the approval of each such separate voting group at a meeting at which a quorum of the voting group exists.

(f) If the nonprofit corporation does not have any members entitled to vote on its dissolution, a proposal to dissolve shall be adopted by the corporation when it has been adopted by the board of directors.

(g) A charitable corporation shall give the Attorney General for the District of Columbia notice in the form of a record that it intends to dissolve before the time it delivers articles of dissolution to the Mayor. Notice to the Attorney General under this section shall not delay or otherwise affect the dissolution process.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.03. Articles of dissolution.

(a) At any time after dissolution is authorized, the nonprofit corporation may dissolve by delivering to the Mayor for filing articles of dissolution setting forth:

(1) The name of the corporation;

(2) The date dissolution was authorized; and

(3) That the dissolution was approved in the manner required by this chapter and by the articles of incorporation and bylaws.

(b) A nonprofit corporation shall be dissolved upon the effective date of its articles of dissolution.

(c) For purposes of this part, the term “dissolved corporation” means a

nonprofit corporation whose articles of dissolution have become effective and includes a successor entity to which the remaining assets of the corporation are transferred subject to its liabilities for purposes of liquidation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.04. Revocation of dissolution.

(a) A nonprofit corporation may revoke its dissolution within 120 days of its effective date.

(b) Revocation of dissolution shall be authorized in the same manner as the dissolution was authorized unless that authorization permitted revocation by action of the board of directors alone, in which event the board of directors may revoke the dissolution without action by the members.

(c) After the revocation of dissolution is authorized, the nonprofit corporation may revoke the dissolution by delivering to the Mayor for filing articles of revocation of dissolution, together with a copy of its articles of dissolution, that set forth:

- (1) The name of the corporation;
- (2) The effective date of the dissolution that was revoked;
- (3) The date that the revocation of dissolution was authorized; and
- (4) That the revocation of dissolution was approved in the manner required by this chapter and by the articles of incorporation and bylaws.

(d) Revocation of dissolution shall be effective upon the effective date of the articles of revocation of dissolution.

(e) When the revocation of dissolution is effective, it relates back to and takes effect as of the effective date of the dissolution and the nonprofit corporation resumes carrying on its activities as if dissolution had never occurred.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.05. Effect of dissolution.

(a) A dissolved nonprofit corporation continues its corporate existence but shall not carry on any activities except those appropriate to wind up and liquidate its affairs, including:

- (1) Collecting its assets;
- (2) Disposing of its properties that will not be distributed in kind;
- (3) Discharging or making provision for discharging its liabilities;
- (4) Distributing its remaining property as required by law and its articles of incorporation and bylaws, and otherwise as approved when the dissolution was approved or among the members per capita; and

(5) Doing every other act necessary to wind up and liquidate its activities and affairs.

(b) Dissolution of a nonprofit corporation shall not:

(1) Transfer title to the corporation's property;

(2) Subject its directors, members of a designated body, or officers to standards of conduct different from those prescribed in subchapter VI of this chapter;

(3) Change:

(A) Quorum or voting requirements for its board of directors or members;

(B) Provisions for selection, resignation, or removal of its directors or officers, or both;

(C) Provisions for amending its bylaws;

(4) Prevent commencement of a proceeding by or against the corporation in its corporate name;

(5) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution; or

(6) Terminate the authority of the registered agent of the corporation.

(c) Property held in trust or otherwise dedicated to a charitable purpose shall not be diverted from its purpose by the dissolution of a nonprofit corporation unless and until the corporation obtains an order of the Superior Court to the extent required by and pursuant to the law of the District on cy pres or otherwise dealing with the nondiversion of charitable assets.

(d) A person that is a member or otherwise affiliated with a charitable corporation shall not receive a direct or indirect financial benefit in connection with the dissolution of the corporation unless the person is a charitable corporation or an unincorporated entity that has a charitable purpose. This subsection shall not apply to the receipt of reasonable compensation for services rendered.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-412.23.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

CASE NOTES

In general.

Parents of student enrolled in two parochial schools, alumnae, and nonprofit corporation formed to perpetuate existence of two private schools for women, did not have a legally cognizable beneficial or trust interest in schools or school property such that sale of properties and diversion of proceeds from sale to retirement

fund of religious order violated beneficial trust interest as well as purpose clause of school corporations, where religious order, rather than school corporations, was record owner of school properties. *Save Immaculata/Dunblane, Inc. v. Immaculata Preparatory School, Inc.*, 514 A.2d 1152, 1986 D.C. App. LEXIS 423 (1986).

§ 29-412.06. Known claims against dissolved corporation.

(a) A dissolved nonprofit corporation may dispose of the known claims

against it by delivering notice to its known claimants of the dissolution at any time after its effective date.

(b) The notice shall be in the form of a record and:

- (1) Describe information that shall be included in a claim;
- (2) Provide a mailing address where a claim may be sent;
- (3) State the deadline, which may not be fewer than 120 days from the effective date of the notice, by which the dissolved nonprofit corporation must receive the claim; and

(4) State that the claim will be barred if not received by the deadline.

(c) A claim against the dissolved nonprofit corporation shall be barred if the claimant:

(1) That was given notice under subsection (b) of this section does not deliver the claim to the dissolved corporation by the deadline; or

(2) Whose claim was rejected by the dissolved corporation does not commence a proceeding to enforce the claim within 90 days from the effective date of the rejection notice.

(d) For purposes of this section, the term “claim” does not include a contingent liability or a claim based on an event occurring after the effective date of dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-412.07, § 29-412.09, and § 29-412.23.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.07. Other claims against dissolved corporation.

(a) A dissolved nonprofit corporation may publish notice of its dissolution and request that persons with claims against the dissolved corporation present them in accordance with the notice.

(b) The notice shall:

(1) Be published one time in a newspaper of general circulation in the District, or, if there was no office in the District, where its principal office is or was last located;

(2) Describe the information that must be included in a claim and provide a mailing address where the claim must be sent; and

(3) State that a claim against the dissolved corporation will be barred unless a proceeding to enforce the claim is commenced within 3 years after the publication of the notice.

(c) If the dissolved nonprofit corporation publishes a newspaper notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences a proceeding to enforce the claim against the dissolved corporation within 3 years after the publication date of the newspaper notice:

(1) A claimant that was not given notice under § 29-412.06;

(2) A claimant whose claim was timely sent to the dissolved corporation but not acted on; or

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim that is not barred by § 29-412.06(b) or § 29-412.07(c) may be enforced:

(1) Against the dissolved nonprofit corporation, to the extent of its undistributed assets; or

(2) Except as otherwise provided in § 29-412.08(d), if the assets have been distributed in liquidation, against any person, other than a creditor of the dissolved corporation, to whom the corporation distributed its property to the extent of the distributee's pro rata share of the claim or the corporate assets distributed to the distributee in liquidation, whichever is less, but a distributee's total liability for all claims under this section shall not exceed the total amount of assets distributed to the distributee.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-412.08, § 29-412.09, and § 29-412.23.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.08. Court proceedings.

(a) A dissolved nonprofit corporation that has published a notice under § 29-412.07 may file an application with the Superior Court for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved corporation or that are based on an event occurring after the effective date of dissolution but that, based on the facts known to the dissolved corporation, are reasonably estimated to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under § 29-412.07(c).

(b) Within 10 days after the filing of the application, notice of the proceeding must be given by the dissolved nonprofit corporation to each claimant holding a contingent claim whose contingent claim is shown on the records of the dissolved corporation.

(c) The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, shall be paid by the dissolved nonprofit corporation.

(d) Provision by the dissolved nonprofit corporation for security in the amount and the form ordered by the Superior Court under subsection (a) of this section shall satisfy the dissolved corporation's obligations with respect to claims that are contingent, have not been made known to the dissolved corporation, or are based on an event occurring after the effective date of dissolution, and such claims shall not be enforced against a person that received assets in liquidation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(19), 59 DCR 13171.)

Section references. — This section is referenced in § 29-412.07 and § 29-412.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Court” for “Judicial” in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-412.09. Directors’ duties.

(a) Directors shall cause the dissolved nonprofit corporation to discharge or make reasonable provision for the payment of claims and make distributions of assets after payment or provision for claims.

(b) Directors of a dissolved nonprofit corporation that has disposed of claims under § 29-412.06, § 29-412.07, or § 29-412.08 shall not be liable for breach of § 29-412.09(a) with respect to claims against the dissolved corporation that are barred or satisfied under § 29-412.06, § 29-412.07, or § 29-412.08.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART B.

JUDICIAL DISSOLUTION OR OTHER EQUITABLE RELIEF.

§ 29-412.20. Grounds for judicial dissolution or other equitable relief.

(a) The Superior Court may dissolve a nonprofit corporation, place a corporation in receivership, impose a constructive trust on compensation paid to a corporation’s director, officer, or manager, or grant other injunctive or equitable relief with respect to a corporation:

(1) In a proceeding by the Attorney General for the District of Columbia if it is established that:

(A) The corporation obtained its articles of incorporation through fraud;

(B) The corporation has exceeded or abused and is continuing to exceed or abuse the authority conferred upon it by law; or

(C) The corporation has continued to act contrary to its nonprofit purposes;

(2) Except as otherwise provided in the articles of incorporation or bylaws, in a proceeding by 50 members or members holding at least 5% of the voting power, whichever is less, or by a director or member of a designated body, if it is established that:

(A) The directors or a designated body are deadlocked in the management of the corporate affairs, the members, if any, are unable to break the deadlock, and irreparable injury to the corporation or its mission is threatened or being suffered because of the deadlock;

(B) The directors or those in control of the corporation have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) The members are deadlocked in voting power and have failed, for a period that includes at least 2 consecutive annual meeting dates, to elect successors to directors whose terms have, or otherwise would have, expired;

(D) The corporate assets are being misapplied or wasted; or

(E) The corporation has insufficient assets to continue its activities and it is no longer able to assemble a quorum of directors or members;

(3) In a proceeding by a creditor, if it is established that:

(A) The creditor's claim has been reduced to judgment, the execution on the judgment returned unsatisfied, and the corporation is insolvent; or

(B) The corporation has admitted in a record that the creditor's claim is due and owing and the corporation is insolvent; or

(4) In a proceeding by the corporation to have its voluntary dissolution continued under court supervision.

(b)(1) If the Attorney General, in the course of an investigation to determine whether to bring a court action under this section, has reason to believe that a person may have information, or may be in possession, custody, or control of documentary material, relevant to the investigation, the Attorney General may issue in writing, and cause to be served upon the person, a subpoena requiring the person to give oral testimony under oath, or to produce records, books, papers, contracts, electronically-stored data, and other documentary material for inspection and copying.

(2) Information obtained pursuant to this authority to subpoena shall not be admissible in a later criminal proceeding against the person who provided the information.

(3) The Attorney General may petition the Superior Court for an order compelling compliance with a subpoena issued pursuant to this authority to subpoena.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-403.04 and § 29-412.23. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-412.21. Procedure for judicial dissolution.

(a) It shall not be necessary to make directors or members parties to a proceeding to dissolve a nonprofit corporation unless relief is sought against them individually.

(b) The Superior Court, in a proceeding brought to dissolve a nonprofit corporation, may issue injunctions, appoint a receiver or custodian pendente lite with all powers and duties the court directs, take other action required to preserve the corporate assets wherever located, and carry on the activities of the corporation until a full hearing can be held.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-412.22. Receivership or custodianship.

(a) The Superior Court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint one or more receivers to wind up and liquidate, or one or more custodians to manage, the affairs of the corporation. The court shall hold a hearing, after giving notice to all parties to the proceeding and any interested persons designated by the court, before appointing a receiver or custodian. The court appointing a receiver or custodian has exclusive jurisdiction over the corporation and all of its property wherever located.

(b) The Superior Court may require the receiver or custodian to post bond, with or without sureties, in an amount the court directs.

(c) The Superior Court shall describe the powers and duties of the receiver or custodian in its appointing order, which may be amended. Among other powers:

(1) The receiver:

(A) May dispose of all or any part of the assets of the nonprofit corporation wherever located, at a public or private sale, if authorized by the court; and

(B) May sue and defend in his or her own name as receiver of the corporation;

(2) The custodian may exercise all of the powers of the corporation, through or in place of its board of directors and any designated body, to the extent necessary to manage the affairs of the corporation consistent with its mission and in the best interests of its members, if any, and creditors.

(d) During a receivership, the Superior Court may redesignate the receiver a custodian, and during a custodianship may redesignate the custodian a receiver, if doing so is consistent with the mission of the nonprofit corporation and in the best interests of the corporation, its members, and creditors.

(e) The Superior Court during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made to the receiver or custodian and counsel from the assets of the nonprofit corporation or proceeds from the sale of the assets.

(f) This section does not apply to a religious corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Charitable-use limitations.
In general.

Charitable-use limitations.

Bankruptcy court was within its discretion in finding that there was insufficient evidence of fraud or material misrepresentation in non-

profit pediatric health care provider's solicitation of grant from charitable trust that supported pediatric health care for low-income families to warrant imposition of a constructive trust over grant funds remaining when provider filed bankruptcy petition and bankruptcy trustee used grant funds to pay provider's debts, although provider may have been aware that it owed over \$66,000 in back payroll taxes for its employees at time it applied for \$60,000 grant, where there was no evidence that provider either wrongfully concealed relevant facts from trust, which had been a regular source of its financial support, or that it affirmatively misled trust about its finances. *Bierbower v. McCarthy*, 334 B.R. 478, 2005 U.S. Dist. LEXIS 33159 (2005), appeal dismissed by 2006 U.S. App. LEXIS 32525 (D.C. Cir. Oct. 17, 2006).

Under District of Columbia law, charitable-use limitation that accompanied grant made by charitable trust that supported pediatric health care for low-income families to nonprofit provider of pediatric health care did not result in a charitable trust when provider filed bankruptcy petition and bankruptcy trustee used grant to pay provider's debts, where trust purpose did not necessarily fail, since payment of provider's administrative expenses such as payroll taxes for its employees was entirely consistent with charitable purpose of grant. *Bierbower v. McCarthy*, 334 B.R. 478, 2005 U.S. Dist. LEXIS 33159 (2005), appeal dismissed by 2006 U.S. App. LEXIS 32525 (D.C. Cir. Oct. 17, 2006).

Under District of Columbia statute governing dissolution of nonprofit corporations, grant

funds in possession of nonprofit provider of pediatric health care were to be used by trustee of provider's bankruptcy estate to satisfy its corporate liabilities and obligations, notwithstanding any charitable-use limitations imposed by charitable trust that gave grant to provider shortly before provider filed bankruptcy petition. *Bierbower v. McCarthy*, 334 B.R. 478, 2005 U.S. Dist. LEXIS 33159 (2005), appeal dismissed by 2006 U.S. App. LEXIS 32525 (D.C. Cir. Oct. 17, 2006).

In general.

Under District of Columbia law, temporary receiver that was appointed by court in proceeding to liquidate assets and affairs of corporation that operated hospital had full authority to enter into agreement with bank on hospital's behalf, including agreement to execute deed of trust in favor of bank as consideration for its extension of letter of creditor that it had issued for hospital. D.C. Code 1981, § 29-557(a). *Columbia Hosp. for Women Found. v. Bank of Tokyo-Mitsubishi*, 15 F.Supp.2d 1, 1997 U.S. Dist. LEXIS 22723 (1997), affirmed by 1998 U.S. App. LEXIS 7871 (D.C. Cir. Apr. 17, 1998).

Under District of Columbia law, court's jurisdiction to appoint receiver pendente lite for corporation is independent of its jurisdiction to appoint liquidating receiver, and depends only on whether the court has before it proceedings to liquidate assets and affairs of corporation. D.C. Code 1981, § 29-557(a). *Columbia Hosp. for Women Found. v. Bank of Tokyo-Mitsubishi*, 15 F.Supp.2d 1, 1997 U.S. Dist. LEXIS 22723 (1997), affirmed by 1998 U.S. App. LEXIS 7871 (D.C. Cir. Apr. 17, 1998).

§ 29-412.23. Decree of dissolution.

(a) If, after a hearing, the Superior Court determines that one or more grounds for judicial dissolution described in § 29-412.20 exist, it may enter a decree dissolving the nonprofit corporation and specifying the effective date of the dissolution, and the clerk of the court shall deliver a certified copy of the decree to the Mayor, who shall file it.

(b) After entering the decree of dissolution, the Superior Court shall direct the winding-up and liquidation of the nonprofit corporation's affairs in accordance with § 29-412.05 and the notification of claimants in accordance with §§ 29-412.06 and 29-412.07.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

PART C.

MISCELLANEOUS.

§ 29-412.30. Deposit with Mayor.

Assets of a dissolved nonprofit corporation that should be transferred to a creditor, claimant, or member of the corporation who cannot be found or who is not competent to receive them shall be reduced to cash and deposited with the Mayor for safekeeping. When the creditor, claimant, or member furnishes satisfactory proof of entitlement to the amount deposited, the Mayor shall pay the amount held.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Subchapter XIII. Records and Reports.

PART A.

RECORDS.

§ 29-413.01. Corporate records.

(a) A nonprofit corporation shall keep as permanent records minutes of all meetings of its members, board of directors, and any designated body, a record of all actions taken by the members, board of directors, or members of a designated body without a meeting, and a record of all actions taken by a committee of the board of directors or a designated body on behalf of the corporation.

(b) A nonprofit corporation shall maintain appropriate accounting records.

(c) A membership corporation or its agent shall maintain a record of its members, in a form that permits preparation of a list of the names and addresses of all members, in alphabetical order by class, showing the number of votes each member is entitled to cast.

(d) A nonprofit corporation shall maintain its records in written form or in any other form of a record.

(e) A nonprofit corporation shall keep a copy of the following records at its principal office:

(1) Its articles of incorporation or restated articles of incorporation and all amendments to them currently in effect;

(2) Its bylaws or restated bylaws and all amendments to them currently in effect;

(3) The minutes and records described in subsection (a) of this section for the past 3 years;

(4) All communications in the form of a record to members generally within the past 3 years, including the financial statements furnished for the past 3 years under § 29-413.20;

(5) A list of the names and business addresses of its current directors and officers; and

(6) Its most recent biennial report delivered to the Mayor under § 29-102.11.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-406.40 and § 29-413.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

§ 29-413.02. Inspection of records by members.

(a) Subject to § 29-413.07, a member of a nonprofit corporation shall be entitled to inspect and copy, during regular business hours at the corporation's principal office, any of the records of the corporation described in § 29-413.01(e) if the member delivers to the corporation a signed notice in the form of a record at least 5 business days before the date on which the member wishes to inspect and copy.

(b) A member of a nonprofit corporation shall be entitled to inspect and copy, during regular business hours at a reasonable location specified by the corporation, any of the following records of the corporation if the member meets the requirements of subsection (c) of this section and delivers to the corporation a signed notice in the form of a record at least 5 business days before the date on which the member wishes to inspect and copy:

(1) Excerpts from any records required to be maintained under § 29-413.01(a), to the extent not subject to inspection under § 29-413.02(a);

(2) Accounting records of the corporation; and

(3) Subject to § 29-413.07, the membership list.

(c) A member may inspect and copy the records described in subsection (b) of this section only if:

(1) The member's demand is made in good faith and for a proper purpose;

(2) The member describes with reasonable particularity the purpose and the records the member desires to inspect; and

(3) The records are directly connected with this purpose.

(d) The right of inspection granted by this section may not be abolished or limited by a nonprofit corporation's articles of incorporation or bylaws.

(e) This section shall not affect:

(1) The right of a member to inspect records under § 29-405.20 or, if the member is in litigation with the corporation, to the same extent as any other litigant; or

(2) The power of a court, independently of this chapter, to compel the production of corporate records for examination.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(20), 59 DCR 13171.)

Section references. — This section is referenced in § 29-405.20, § 29-413.03, § 29-413.04, and § 29-413.20.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “may not” for “may” in (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-413.03. Scope of inspection right.

(a) A member’s agent or attorney shall have the same inspection and copying rights as the member represented.

(b) The right to copy records under § 29-413.02 shall include, if reasonable, the right to receive copies. Copies may be provided through an electronic transmission if available and so requested by the member.

(c) The nonprofit corporation may comply at its expense with a member’s demand to inspect the record of members under § 29-413.02(b)(3) by providing the member with a list of members that was compiled no earlier than the date of the member’s demand.

(d) The nonprofit corporation may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to the member. The charge shall not exceed the estimated cost of production, reproduction, or transmission of the records.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-413.04. Court-ordered inspection.

(a) If a nonprofit corporation does not allow a member who complies with § 29-413.02(a) to inspect and copy any records required by that subsection to be available for inspection, the Superior Court may summarily order inspection and copying of the records demanded at the corporation’s expense upon application of the member.

(b) If a nonprofit corporation does not within a reasonable time allow a member to inspect and copy any other record, the member who complies with § 29-413.02(b) and (c) may apply to the Superior Court for an order to permit inspection and copying of the records demanded. The court shall dispose of an application under this subsection on an expedited basis.

(c) If the Superior Court orders inspection and copying of the records demanded, it shall also order the nonprofit corporation to pay the member’s costs, including reasonable attorneys’ fees, incurred to obtain the order unless the corporation proves that it refused inspection in good faith because it had a reasonable basis for doubt about the right of the member to inspect the records demanded.

(d) If the Superior Court orders inspection and copying of the records demanded, it may impose reasonable restrictions on the use or distribution of the records by the demanding member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-413.05. Inspection of records by directors.

(a) A director of a nonprofit corporation shall be entitled to inspect and copy the books, records, and documents of the corporation at any reasonable time to the extent reasonably related to the performance of the director's duties as a director, including duties as a member of a committee, but not for any other purpose or in any manner that would violate any duty to the corporation or law other than this chapter.

(b) The Superior Court may order inspection and copying of the books, records, and documents at the corporation's expense, upon application of a director who has been refused such inspection rights, unless the corporation establishes that the director is not entitled to such inspection rights. The court shall dispose of an application under this subsection on an expedited basis.

(c) If an order is issued, the court may include provisions protecting the nonprofit corporation from undue burden or expense, and prohibiting the director from using information obtained upon exercise of the inspection rights in a manner that would violate a duty to the corporation, and may also order the corporation to reimburse the director for the director's costs, including reasonable attorney's fees, incurred in connection with the application.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-413.06. Exception to notice requirement.

(a) Whenever notice would otherwise be required to be given under any provision of this chapter to a member, the notice need not be given if notice of 2 consecutive annual meetings, and all notices of meetings during the period between such 2 consecutive annual meetings, have been returned undeliverable or could not be delivered.

(b) If a member delivers to the nonprofit corporation a notice setting forth the member's then-current address, the requirement that notice be given to that member shall be reinstated.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-413.07. Limitations on use of membership list.

(a) Without consent of the board of directors, a membership list or any part thereof shall not be obtained or used by any person and shall not be:

(1) Used to solicit money or property unless the money or property will be used solely to solicit the votes of the members in an election to be held by the nonprofit corporation;

(2) Used for any commercial purpose; or

(3) Sold to or purchased by any person.

(b) Instead of making a membership list available for inspection and copying under this subpart, a nonprofit corporation may elect to proceed under the procedures set forth in § 29-405.20(f).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-413.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

PART B.**REPORTS.**

§ 29-413.20. Financial statements for members.

(a) Upon a demand in the form of a record from a member, a nonprofit corporation shall furnish that member with its latest annual financial statements, which may be consolidated or combined statements of the nonprofit corporation and one or more of its subsidiaries, as appropriate, that include a balance sheet as of the end of the fiscal year and a statement of operations for the year. If financial statements are prepared for the nonprofit corporation on the basis of generally accepted accounting principles, the annual financial statements shall also be prepared on that basis. A nonprofit corporation may impose a reasonable charge for copying the report.

(b) If the annual financial statements are reported upon by a certified public accountant, the accountant's report must accompany them. If not, the statements shall be accompanied by a statement of the president or the person responsible for the nonprofit corporation's accounting records:

(1) Stating the reasonable belief of the president or other person as to whether the statements were prepared on the basis of generally accepted accounting principles and, if not, describing the basis of preparation; and

(2) Describing any respects in which the statements were not prepared on a basis of accounting consistent with the statements prepared for the preceding year.

(c) The rights of a member under this section are in addition to the rights under § 29-413.02.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-413.01. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

Subchapter XIV. Transition Provisions.

§ 29-414.01. Application to existing domestic corporations.

Except as otherwise provided by § 29-107.01, this chapter shall apply to all domestic nonprofit corporations in existence on its effective date that were incorporated under any general statute of the District providing for incorporation of nonprofit corporations.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(21), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “Except as otherwise provided by § 29-107.01.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-414.02. Application to registered foreign corporations.

A foreign nonprofit corporation authorized to do business in the District on the effective date of this chapter shall be subject to this chapter, but is not required to obtain a new certificate of registration to do business under this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(d)(22), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “registered” for “qualified” in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-401.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-414.03. Entitlement to cumulate votes.

Members of a nonprofit corporation that were entitled to cumulate their votes for the election of directors on the effective date of this chapter shall continue to be entitled to cumulate their votes for the election of directors until otherwise provided in the articles of incorporation or bylaws of the corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-414.04. Quorum requirement for existing nonprofit corporations.

With respect to a nonprofit corporation that was in existence on the effective date of this chapter, except as otherwise provided in the articles of incorporation or bylaws, one-tenth of the votes of members entitled to vote in person or by proxy shall constitute a quorum.

(Mar. 5, 2013, D.C. Law 19-210, § 2(d)(23), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-401.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

CHAPTER 5. PROFESSIONAL CORPORATIONS.

Sec.

29-501. Short title.

29-502. Definitions.

29-503. Applicability.

29-504. Construction; applicability of Chapter 3 of this title to corporations organized under [this] chapter.

29-505. Purpose for organization; powers authorized.

29-506. Incorporation.

29-507. Number of directors.

29-508. Qualifications of shareholders, director, and officer.

Sec.

29-509. Proxy prohibited.

29-510. Professional relationship; liabilities.

29-511. Transfer of shares.

29-512. Merger or consolidation restricted.

29-513. Disqualified professional.

29-514. Disposition of stock of disqualified, deceased, or legally incompetent shareholder.

29-515. Redemption price.

29-516. Perpetual duration; dissolution.

§ 29-501. Short title.

This chapter may be cited as the “Professional Corporation Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Cross references. — Accountants, registration of firms of CPAs, compliance with this chapter, see § 47-2853.44.

Income and franchise taxes, “corporation” defined, see § 47-1801.04.

Income and franchise taxes, “unincorporated business” defined, see § 47-1801.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Former § 29-501 has been recodified as § 36-501.

§ 29-502. Definitions.

For the purposes of this chapter, the term:

(1) “License” means license, certification, certificate, or registration, or other legal authorization required by law as a condition precedent to the rendering of professional service within the District.

(2) “Professional corporation” means a corporation organized under this chapter solely for the specific purposes provided under this chapter and which has, as its shareholders, only individuals who themselves are duly licensed to render the same professional service as the corporation.

(3) “Professional service” means any type of personal service to the public which may be lawfully rendered only pursuant to a license and which by law, custom, standards of professional conduct or practice in the District before December 10, 1971, could not be rendered by a corporation, including the services performed by certified public accountants, attorneys, architects, health professionals as defined in section 101(8) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01(8)), and professional engineers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(e)(1), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “health professionals as defined in section

101(8) of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code

§ 3-1201.01(8))” for “practitioners of the healing arts, dentists, optometrists, podiatrists” in (3).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was

adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Former § 29-502 has been recodified as § 36-502.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-503. Applicability.

This chapter shall not apply to any corporation now in existence or hereafter organized which may lawfully render professional services other than pursuant to this chapter. This chapter shall not alter or affect any existing or future right or privilege permitting or not prohibiting performance of professional services through the use of any form of business organization. A corporation organized under Chapter 3 of this title may be brought within this chapter by complying with this chapter and filing amended or restated articles of incorporation meeting the requirements of § 29-506.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-403.
1981 Ed., § 29-603.
1973 Ed., § 29-1103.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Former § 29-503 has been recodified as § 36-503.

§ 29-504. Construction; applicability of Chapter 3 of this title to corporations organized under [this] chapter.

(a) This chapter shall not repeal, modify, or restrict the laws relating to corporations, or regulating the professions covered by this chapter, unless these laws conflict with this chapter.

(b) Except as otherwise provided in this chapter, Chapter 3 of this title shall apply to a professional corporation organized under this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-404.
1981 Ed., § 29-604.
1973 Ed., § 29-1104.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Former § 29-504 has been recodified as § 36-504.

§ 29-505. Purpose for organization; powers authorized.

(a) A professional corporation may be organized solely to render professional services through its shareholders, directors, officers, employees, or agents who are themselves licensed to render the particular service, and to render service ancillary thereto. A professional corporation may charge for these services, may collect such charges, and may compensate those who render these

services. A professional corporation may employ individuals who are not licensed, but they shall not perform professional services. No license shall be required of any person employed by a professional corporation to perform services for which a license is not otherwise required.

(b) A professional corporation may not do any act that is prohibited to an individual licensed to render the professional service for which the corporation is organized.

(c) A professional corporation may:

(1) Invest its funds in real estate, mortgages, stocks, bonds, or other type of investment;

(2) Own real estate or personal property; and

(3) Enter into partnership and other agreements with individuals, who may be shareholders, directors, employees, or agents of the professional corporation, partnerships, or professional corporations rendering the same type of professional services within or without the District to the same extent that an individual licensed to render the same professional service may enter into such partnership or other agreements pursuant to law, rules, regulations, or standards of professional conduct of the profession practiced through the professional corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1302.01.

Prior Codifications. — 2001 Ed., § 29-405.
1981 Ed., § 29-605.

1973 Ed., § 29-1105.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-506. Incorporation.

One or more individuals may incorporate a professional corporation by delivering articles of incorporation for filing to the Mayor. The articles of incorporation shall meet the requirements of Chapter 3 of this title and shall set forth:

(1) The designation of the professional services to be rendered through the corporation;

(2) The names and addresses, including street address, if any, of the original shareholders of the corporation; and

(3) A statement that each of the original shareholders and directors named in the articles of incorporation is licensed to render a professional service for which the corporation is to be organized.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-503.

Prior Codifications. — 2001 Ed., § 29-406.
1981 Ed., § 29-606.

1973 Ed., § 29-1106.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-507. Number of directors.

A professional corporation shall have one or more directors, without regard to the number of shareholders.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-407.
1981 Ed., § 29-607.
1973 Ed., § 29-1107.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-508. Qualifications of shareholders, director, and officer.

(a) For the purposes of this section, the term “officer” means the chair of the board, president, vice-president, treasurer, or secretary.

(b) A person shall not be a shareholder, director, or officer of a professional corporation or render professional services on its behalf unless the person is an individual licensed to render a professional service for which the corporation is organized; provided, that if a professional corporation has only one shareholder, the secretary of the corporation need not be licensed to perform, and shall not perform if not so licensed, such professional services.

(c) Nothing in this chapter shall require a shareholder or incorporator of a professional corporation to have a present or future employment relationship with the corporation or actively to participate in any capacity in the production of income of, or performance of professional service by, such corporation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-408.
1981 Ed., § 29-608.
1973 Ed., § 29-1108.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-509. Proxy prohibited.

A shareholder of a professional corporation shall not enter into a voting trust, proxy, or any other arrangement vesting another person, other than another shareholder of the same corporation, with the authority to exercise the voting power of any or all of his shares, and any such voting trust, proxy, or other arrangement shall be void.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-410.
1981 Ed., § 29-610.
1973 Ed., § 29-1110.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-510. Professional relationship; liabilities.

(a) This chapter shall not alter or affect the professional relationship between an individual furnishing professional services and an individual receiving such service, either with respect to liability arising out of such professional service or the confidential relationship, if any, between the

individual rendering, and the individual receiving, the professional service. An individual shall be personally liable and accountable only for any negligent or wrongful acts or misconduct committed by the individual, or by any individual under the individual's supervision and control in the rendering of professional service, on behalf of a corporation organized under this chapter. An individual shall not be personally liable merely because the individual is a director, officer, or manager of the professional corporation.

(b) A professional corporation shall be liable up to the full value of its assets for any negligent or wrongful acts or misconduct committed by any of its officers, shareholders, directors, agents, or employees in their rendering of professional services on behalf of the corporation. Except as otherwise provided in this section, the liabilities of a professional corporation and its shareholders shall be governed by Chapter 3 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-411.
1981 Ed., § 29-611.
1973 Ed., § 29-1111.
2001 Ed., § 29-410.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Notice.

Member of law firm which was professional corporation could be charged with "constructive notice" under the District of Columbia Uniform Partnerships Act, that special master in proceeding was also representing party adverse to another of the law firm's clients in an unrelated

action, and thus member waived objection to special master's service, based upon appearance of partiality, by failing to object until after special master's report had been filed. D.C. Code 1981, § 41-401 et seq. *Jenkins v. Sterlacci*, 856 F.2d 274, 1988 U.S. App. LEXIS 12368 (C.A.D.C. 1988).

§ 29-511. Transfer of shares.

(a) Shares in a professional corporation may be transferred only to an individual who is eligible under this chapter to be a shareholder of the corporation, or to the professional corporation, or may devolve by operation of law upon the personal representative or estate of a deceased or legally incompetent shareholder. The articles of incorporation, bylaws, or an agreement among its shareholders may provide that any such transfer is subject to the express approval of all, or of any lesser proportion of the remaining shareholders of the corporation, and may provide for the manner in which such consent is given. Any transfer made in violation of this section shall be void.

(b) A professional corporation may reacquire its own shares through purchase or redemption, and may cancel those shares if at least one share remains issued and outstanding, except when it is insolvent or the purchase or redemption would render it insolvent.

(c) The Securities Act of 2000, effective October 26, 2000 (D.C. Law 13-203; D.C. Official Code § 31-5601.01 et seq.), and the Securities Act of 1933, approved May 27, 1933 (48 Stat. 74; 15 U.S.C. § 77a et seq.), shall not apply to the issuance or transfer of securities of a professional corporation.

(d) Every certificate for shares of a professional corporation shall contain on

its face the following legend: "The ownership and transfer of these shares and the rights and obligations of shareholders are subject to the limitations of the Professional Corporation Act of 2010, D.C. Official Code Title 29, Chapter 5."

(e) If shares of a professional corporation are attached for the individual debts of a shareholder, or are executed upon under any pledge or hypothecation thereof, the sole right of the creditor with respect to such shares shall be to obtain their redemption by the professional corporation within 60 days after serving written demand for redemption upon the corporation. The redemption price for such shares shall be:

(1) The amount to which the shareholder is entitled upon voluntary redemption of the shareholder's shares by the provisions of the articles of incorporation, bylaws, or an agreement among its shareholders; or

(2) If there are no provisions as set forth in paragraph (1) of this subsection, the book value of such shares at the end of the month immediately preceding the date of the demand, determined under generally accepted accounting methods consistent with the method of accounting used by the corporation for federal income tax purposes, by an independent certified public accountant selected by the corporation, but paid by the creditor, for the purpose.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-412.
1981 Ed., § 29-612.
1973 Ed., § 29-1112.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-512. Merger or consolidation restricted.

(a) A professional corporation may merge or consolidate only with another domestic professional corporation or a domestic limited liability company and only if both entities are organized to render the same professional services, which, although not the same, could otherwise be rendered by a single professional corporation or limited liability company.

(b) A member of a domestic limited liability company that is a party to a merger or consolidation shall not, as a result of the merger or consolidation, be personally liable for the liabilities or obligations of any other person or entity unless that member approves the agreement of merger or consolidation or otherwise consents to becoming personally liable.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-202.01.

1973 Ed., § 29-1113.

Prior Codifications. — 2001 Ed., § 29-413.
1981 Ed., § 29-613.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-513. Disqualified professional.

If any individual rendering professional services on behalf of a professional corporation assumes a public office that prohibits his or her rendering of the professional services, or for any other reason is disqualified by law to render

the professional services, the individual immediately shall sever all employment relationships in which the individual shares in the corporation's profits attributable to professional services rendered after such assumption of office or other disqualification. For the purposes of § 29-514, the individual shall be referred to as a "disqualified shareholder".

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-415.
1981 Ed., § 29-615.
1973 Ed., § 29-1115.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-514. Disposition of stock of disqualified, deceased, or legally incompetent shareholder.

(a) Subject to the limitations of this section, a disqualified shareholder and personal representatives, legatees, or heirs of a deceased or legally incompetent shareholder may continue to own shares of a professional corporation, but shall not participate in any decision concerning the rendering of professional services by the corporation. The articles of incorporation, bylaws, or an agreement among the shareholders of a professional corporation may provide, consistent with this section, for the disposition of shares of a disqualified, deceased, or legally incompetent shareholder.

(b) The articles of incorporation, bylaws, or an agreement among shareholders may provide that, within 90 days, or any earlier date, after the date a shareholder becomes a disqualified shareholder, the disqualified shareholder shall sell and surrender, and the corporation or any individuals qualified to be shareholders shall purchase and receive, the shareholder's shares of stock of the corporation. In the absence of such a provision, the disqualified shareholder shall sell and surrender, and the corporation shall purchase and receive, the shareholder's shares of stock of the corporation within 30 days after the date the shareholder becomes a disqualified shareholder. Unless otherwise provided by the articles of incorporation, bylaws, or an agreement among the shareholders, payment for the shares of stock purchased pursuant to this subsection shall be made in full no later than 6 months after the expiration of the period by which the purchases must be made.

(c) The articles of incorporation, bylaws, or an agreement among shareholders may provide that, within one year, or any earlier date, after the date of death of a shareholder, the shareholder's personal representative, legatees, or heirs shall sell and surrender, and the corporation or any individuals qualified to be shareholders shall purchase and receive, the shares of stock of the corporation owned by the deceased shareholder. In the absence of such a provision, the personal representatives, legatees, or heirs shall sell and surrender, and the corporation shall purchase and receive, the shares of stock of the corporation within 180 days after the date of death of the shareholder. Unless otherwise provided by the articles of incorporation, bylaws, or an agreement among the shareholders, payment for the shares of stock purchased pursuant to this subsection shall be made in full no later than one year after the date of death of the shareholder.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-513.

Prior Codifications. — 2001 Ed., § 29-416. 1981 Ed., § 29-616.

1973 Ed., § 29-1116.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-515. Redemption price.

If the articles of incorporation, bylaws, or an agreement among the shareholders, does not fix the price at which the corporation or its shareholders may purchase the shares of a disqualified, deceased, legally incompetent, retired, or expelled shareholder, or does not provide a method of determining such price, the price for such shares shall be the book value of the shares on the last day of the month immediately preceding the disqualification, death, adjudication of incompetence, retirement, or expulsion of the shareholder, determined under generally accepted accounting methods, consistent with the method of accounting used by the corporation for federal income tax purposes, by an independent certified public accountant employed by the corporation for the purpose.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-417. 1981 Ed., § 29-617. 1973 Ed., § 29-1117.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-516. Perpetual duration; dissolution.

(a) A professional corporation shall have perpetual duration, except that whenever all shareholders of a professional corporation cease at any time for any reason to be licensed to perform the professional services for which the corporation was organized, the professional corporation shall be treated as having converted into a corporation organized under Chapter 3 of this title.

(b) Articles of conversion shall be delivered to the Mayor for filing and meet the requirements of § 29-204.05.

(c) Dissolution by a professional corporation shall meet the requirements of § 29-312.03.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(e)(2), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-418. 1981 Ed., § 29-618. 1973 Ed., § 29-1118.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-502.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CHAPTER 6. GENERAL PARTNERSHIPS.

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Subchapter I. General Provisions.

§ 29-601.01. Short title.

This chapter may be cited as the “Uniform Partnership Act of 2010”.
(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 1202 of the Uniform Partnership Act (1997 Act).

§ 29-601.02. Definitions.

For the purposes of this chapter, the term:

- (1) “Business” includes every trade, occupation, and profession.
- (2) “Contribution”, except in the phrase “right of contribution”, means property or a benefit described in § 29-604.03 provided by a person to a partnership to become a partner or in the person’s capacity as a partner.
- (3) “Distribution” means a transfer of money or other property from a partnership to person on account of a transferable interest or in a person’s capacity as a partner.
 - (A) The term includes:
 - (i) A redemption or other purchase by a partnership of a transferable interest; and
 - (ii) A transfer to a partner in return for the partner’s relinquishment of any right to participate as a partner in the management or conduct of the partnership’s business or have access to records or other information concerning the partnership’s business; and
 - (B) The term does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.
- (4) “Domestic partnership” means a partnership whose internal relations are governed by the laws of the District.
- (5) “Foreign limited liability partnership” means a foreign partnership whose partners have limited liability for the debts, obligations, or other

liabilities of the foreign partnership under a provision similar to § 29-603.06(c).

(A) Is formed under laws other than the laws of the District; and

(B) Has the status of a limited liability partnership under those laws.

(6) “Foreign partnership” means an unincorporated entity formed under the law of a jurisdiction other than the District which would be a partnership if formed under the law of the District.

(7) “Limited liability partnership” or “domestic limited liability partnership” means a partnership that has filed a statement of qualification under § 29-610.01 and does not have a similar statement in effect in any other jurisdiction.

(8) “Partner” means a person that:

(A) Has become a partner in a partnership under § 29-604.02 or was a partner in a partnership when the partnership became subject to this chapter under § 29-611.01; and

(B) Has not dissociated as a partner under § 29-606.01.

(9) “Partnership” means an association of 2 or more persons to carry on as co-owners a business for profit formed under § 29-602.02, predecessor law, or comparable law of another jurisdiction.

(10) “Partnership agreement” means the agreement, whether written, oral, or implied, among the partners concerning the partnership, including amendments to the partnership agreement.

(11) “Partnership at will” means a partnership in which the partners have not agreed to remain partners until the expiration of a definite term or the completion of a particular undertaking.

(12) “Partnership interest” or “partner’s interest in the partnership” means all of a partner’s interests in the partnership, including the partner’s transferable interest and all management and other rights.

(13) “Registered foreign limited liability partnership” means a foreign limited liability partnership that is registered to do business in this state pursuant to a statement of registration filed by the Mayor.

(14) “Surviving partnership” means a domestic or foreign partnership into which one or more domestic or foreign partnerships are merged. A surviving partnership may preexist the merger or be created by the merger.

(15) “Transferable interest” means the right, as initially owned by a person in the person’s capacity as a partner, to receive distributions from a partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(16) “Transferee” means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-610.02.

Prior Codifications. — 2001 Ed., § 33-101.01.

1981 Ed., § 41-151.1.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed

by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Uniform Law: This section is based on § 101 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Partnership.
Partnership agreement.

Partnership.

Three limited partnerships formed under laws of Virginia had capacity to sue in their own names under District of Columbia law. *Shenandoah Assocs. L.P. v. Tirana*, 182 F.Supp.2d 14, 2001 U.S. Dist. LEXIS 23453 (2001).

Complaint sufficiently alleged existence of partnership based on oral agreement to state claim for wrongful dissolution of partnership by other putative partners, regardless of putative

partners’ claims that they did not intend to form partnership, which could not be properly raised on motion to dismiss. Civil Rule 12(b)(6); D.C. Code 1981, § 41-105(a). *Fraser v. Gottfried*, 636 A.2d 430, 1994 D.C. App. LEXIS 7 (1994).

Partnership agreement.

Arbitrator’s determination pursuant to the Uniform Partnership Act (UPA) of whether law firm was dissolved did not contravene public policy that would preclude supplanting court jurisdiction through the partnership agreement. D.C. Code 1981, §§ 41-151.1 to 41-162.3. *Lopata v. Coyne*, 735 A.2d 931, 1999 D.C. App. LEXIS 172 (1999).

§ 29-601.03. Knowledge and notice.

- (a) A person knows a fact if the person has actual knowledge of it.
- (b) A person has notice of a fact if the person:
 - (1) Knows of it;
 - (2) Has received a notification of it; or
 - (3) Has reason to know it exists from all of the facts known to the person at the time in question.
- (c) A person notifies or gives a notification to another by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.
- (d) A person receives a notification when the notification:
 - (1) Comes to the person’s attention; or
 - (2) Is duly delivered at the person’s place of business or at any other place held out by the person as a place for receiving communications.
- (e) Except as otherwise provided in subsection (f) of this section, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual’s attention if the person had exercised reasonable diligence. The person exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction and there is reasonable compliance with the routines. Reasonable diligence shall not require an individual acting for the person to communicate information unless

the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(f) A partner's knowledge, notice, or receipt of a notification of a fact relating to the partnership shall be effective immediately as knowledge by notice to, or receipt of a notification by, the partnership, except in the case of a fraud on the partnership committed by or with the consent of that partner.

(g) A person that is not a partner is deemed:

(1) To know of a limitation on authority to transfer real property as provided in § 29-603.03(e); and

(2) To have notice of:

(A) A partner's dissociation 90 days after a statement of dissociation under § 29-607.04 becomes effective; and

(B) A partnership's:

(i) Dissolution 90 days after a statement of dissolution under § 29-608.05 becomes effective;

(ii) Termination 90 days after a statement of termination under § 29-608.02 becomes effective; and

(iii) Participation in a merger, interest exchange, conversion, or domestication 90 days after articles of merger, interest exchange, conversion, or domestication under Chapter 2 of this title becomes effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(B), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 33-101.02.

1981 Ed., § 41-151.2.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (g).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 102 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-601.04. Effect of partnership agreement; nonwaivable provisions.

(a) Except as otherwise provided in subsection (b) of this section, relations among the partners and between the partners and the partnership shall be governed by the partnership agreement. To the extent the partnership agreement does not otherwise provide, this chapter shall govern relations among the partners and between the partners and the partnership.

(b) A partnership agreement shall not:

(1) Vary the rights and duties under § 29-601.05, except to eliminate the duty to provide copies of statements to all of the partners;

(2) Unreasonably restrict the right of access to books and records under § 29-604.03(b);

(3) Eliminate the duty of loyalty under § 29-604.04(b) or § 29-606.03(b)(3), but:

(A) The partnership agreement may identify specific types or categories

of activities that do not violate the duty of loyalty, if not manifestly unreasonable; or

(B) All of the partners or a number or percentage specified in the partnership agreement may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(4) Unreasonably reduce the duty of care under § 29-604.04(c) or § 29-606.03(b)(3);

(5) Eliminate the obligation of good faith and fair dealing under § 29-604.04(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(6) Vary the power to dissociate as a partner under § 29-606.02(a), except to require the notice under § 29-606.01(1) to be in writing;

(7) Vary the right of a court to expel a partner in the events specified in § 29-606.01(5);

(8) Vary the requirement to wind up the partnership business in cases specified in § 29-608.01(4), (5), or (6);

(9) Vary the law applicable to a limited liability partnership under § 29-105.01(a);

(10) Restrict rights of third parties under this chapter;

(11) Vary the provisions of § 29-601.10;

(12) Vary the provisions of § 29-603.07;

(13) Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of the law;

(14) Vary the right of a partner to approve a merger, interest exchange, conversion, or domestication; or

(15) Vary any requirement, procedure, or other provision of this title pertaining to:

(A) Registered agents; or

(B) The Mayor, including provisions pertaining to records authorized or required to be delivered to the Mayor for filing under this title.

(c) Subject to subsection (b) of this section, without limiting other terms that may be included in a partnership agreement, the following rules apply:

(1) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

(2) If not manifestly unreasonable, the partnership agreement may:

(A) Restrict or eliminate the aspects of the duty of loyalty stated in § 29-604.07(b);

(B) Identify specific types or categories of activities and affairs that do not violate the duty of loyalty;

(C) Alter the duty of care, but may not authorize willful or intentional misconduct or knowing violation of law; and

(D) Alter or eliminate any other fiduciary duty.

(d) The court shall decide as a matter of law any claim under subsection

(b)(5) or (c)(2) of this section that a term of a partnership agreement is manifestly unreasonable. The court:

(1) Shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes, activities, and affairs of the limited partnership, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.09 and § 29-604.01.

Prior Codifications. — 2001 Ed., § 33-101.03.

1981 Ed., § 41-151.3.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "A" for "The" in the introductory language of (b); added (b)(11) through (b)(15) and made related changes; and added (c) and (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 103 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Loans.

Under District of Columbia law, even if a loan was a proper form of payment under the partnership agreement, the size and terms of the loans copartner took from the partnership bore no relation to any services he contributed, and, thus, copartner breached the non-waivable du-

ties he owed to partner by reducing the partnership's capital stock almost to nothing as well as by misinforming partner about failure of the securities litigation the partnership was entered into to pursue. *Robertson v. Cartinhour*, 2012 WL 1164950 (C.A.D.C. 2012).

§ 29-601.05. Execution, filing, and recording of statements.

(a) A statement delivered to the Mayor for filing by a partnership shall be executed by at least 2 partners. Other statements shall be executed by a partner or other person authorized by this chapter.

(b) A person that delivers a statement to the Mayor for filing pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person shall not limit the effectiveness of the statement as to a person not a partner.

(c) A statement delivered to the Mayor for filing by a partnership shall be executed by at least 2 partners. Other statements shall be executed by a partner or other person authorized by this chapter. An individual who executes a statement shall personally declare under penalty of making false statements that the contents of the statement are accurate.

(d) A person authorized by this chapter to deliver a statement to the Mayor

for filing may amend or cancel the statement by delivering filing an amendment or cancellation to the Mayor for filing that names the partnership, identifies the statement, and states the substance of the amendment or cancellation.

(e) A person that delivers a statement to the Mayor for filing pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person shall not limit the effectiveness of the statement as to a person not a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04, § 29-603.03, § 29-609.04, and § 29-610.01.

Prior Codifications. — 2001 Ed., § 33-101.05.

1981 Ed., § 41-151.5.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “making false statements” for “perjury” in (c).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 105 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-601.06. Governing law.

The internal affairs of a partnership and the liability of a partner as a partner for the debts, obligations, or other liabilities of the partnership are governed by:

(1) In the case of a limited liability partnership, the law of the District of Columbia; and

(2) In the case of a partnership that is not a limited liability partnership, the law of the state of the jurisdiction in which the partnership has its principal office.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(E), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 33-101.06.

1981 Ed., § 41-151.6.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 106 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-601.07. Applicability of act to foreign and interstate commerce.

(a) A partnership or limited liability partnership organized and existing under this chapter may conduct its business, carry on its operations, and

exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

(b) It is the intent of the Council of the District of Columbia that the legal existence of limited liability partnerships organized in the District be recognized outside the boundaries of the District and that, subject to any reasonable requirement of registration, a District limited liability partnership doing business outside the District be granted full faith and credit.

(c) The liability of partners in a limited liability partnership organized and existing under this chapter for the debts and obligations of the limited liability partnership, or for the acts or omission of other partners, employees, or representatives of the limited liability partnership, shall at all be times determined solely and exclusively by this chapter and any rules promulgated hereunder.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 33-111.06.
1981 Ed., § 41-161.6.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-601.08. Partnership agreement; effect on partnership and person becoming partner; preformation agreement.

(a) A person that becomes a partner of a partnership is deemed to assent to the partnership agreement.

(b) A partnership is bound by and may enforce the partnership agreement, whether or not the partnership itself has manifested assent to the agreement.

(c) Two or more persons intending to become the initial partners of a partnership may make an agreement providing that upon the formation of the partnership the agreement will become the partnership agreement.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(F), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-601.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-601.09. Partnership agreement; effect on third parties and relationship to records effective on behalf of partnership.

(a) A partnership agreement may specify that its amendment requires the approval of a person that is not a party to the agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a partnership and its partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under § 29-605.04 to effectuate a charging order, an amendment to the

partnership agreement made after a person becomes a transferee or is dissociated as a partner:

(1) Is effective with regard to any debt, obligation, or other liability of the partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and

(2) Is not effective to the extent the amendment:

(A) Imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner; or

(B) Prejudices the rights under § 29-607.01 of a person that dissociated as a partner before the amendment was made.

(c) If a record delivered by a partnership to the Mayor for filing becomes effective under this chapter and contains a provision that would be ineffective under § 29-601.04(b) or (d)(2) if contained in the partnership agreement, the provision is ineffective in the record.

(d) Subject to subsection (c) of this section, if a record delivered by a partnership to the Mayor for filing becomes effective under this chapter and conflicts with a provision of the partnership agreement:

(1) The agreement prevails as to partners, persons dissociated as partners, and transferees; and

(2) The record prevails as to other persons to the extent they reasonably rely on the record.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(F), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-601.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-601.10. Signing and filing pursuant to judicial order.

(a) If a person required by this chapter to sign a record or deliver a record to the Mayor for filing under this chapter does not do so, any other person that is aggrieved may petition the Superior Court to order:

(1) The person to sign the record;

(2) The person to deliver the record to the Mayor for filing; or

(3) The Mayor to file the record unsigned.

(b) If a petitioner under subsection (a) of this section is not the partnership or foreign limited liability partnership to which the record pertains, the petitioner shall make the partnership a party to the action.

(c) A record filed under subsection (a)(3) of this section is effective without being signed.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04 and § 29-601.11.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-601.11. Liability for inaccurate information in filed record.

(a) If a record delivered to the Mayor for filing under this title and filed by the Mayor contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) A partner, if:

(A) The record was delivered for filing on behalf of the partnership; and

(B) The partner had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the partner reasonably could have:

(i) Effected an amendment under § 29-610.01(h);

(ii) Filed a petition under § 29-601.10; or

(iii) Delivered to the Mayor for filing a statement of change under § 29-104.07 or a statement of correction under § 29-102.05.

(b) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of making false statements that the information stated in the record is accurate.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(2)(F), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-601.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter II. Nature of Partnership.

§ 29-602.01. Partnership as entity.

(a) A partnership is an entity distinct from its partners.

(b) A limited liability partnership shall continue to be the same entity that existed before the filing of a statement of qualification under § 29-610.01.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 33-102.01.

1981 Ed., § 41-152.1.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 201 of the Uniform Partnership Act (1997 Act).

§ 29-602.02. Formation of partnership.

(a) Except as otherwise provided in subsection (b) of this section, the association of 2 or more persons to carry on as co-owners of a business for profit shall form a partnership, whether or not the persons intend to form a partnership.

(b) An association formed under a statute other than this chapter, a predecessor statute, or a comparable statute of another jurisdiction shall not be a partnership under this chapter.

(c) In determining whether a partnership is formed, the following rules shall apply:

(1) Joint tenancy, tenancy in common, tenancy by the entireties, joint property, common property, or part ownership shall not by itself establish a partnership, even if the co-owners share profits made by the use of the property.

(2) The sharing of gross returns shall not by itself establish a partnership, even if the persons sharing them have a joint or common right or interest in property from which the returns are derived.

(3) A person that receives a share of the profits of a business shall be presumed to be a partner in the business, unless the profits were received in payment:

(A) Of a debt by installments or otherwise;

(B) For services as an independent contractor or of wages or other compensation to an employee;

(C) Of rent;

(D) Of an annuity or other retirement or health benefit to a beneficiary, representative, or designee of a deceased or retired partner;

(E) Of interest or other charge on a loan, even if the amount of payment varies with the profits of the business, including a direct or indirect present or future ownership of the collateral, or rights to income, proceeds, or increase in value derived from the collateral; or

(F) For the sale of the goodwill of a business or other property by installments or otherwise.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-101.02, § 29-601.02, § 29-604.02, and § 47-2855.01.

Prior Codifications. — 2001 Ed., § 33-102.02.

1981 Ed., § 41-152.2.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 202 of the Uniform Partnership Act (1997 Act).

CASE NOTES

ANALYSIS

Admissibility of evidence.

Assent of parties.

Community of interest.

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Creation, generally.

Holding out as partners.

In general.

Intent of parties.

Presumptions and burden of proof.

Weight and sufficiency of evidence.

Admissibility of evidence.

Testimony that person requesting perfor-

mance giving rise to obligation in suit had stated that he and defendant were partners was inadmissible, at least in absence of prima facie showing of partnership established by other evidence. *Dulien v. St. Lewis*, 198 F.2d 301, 1952 U.S. App. LEXIS 3179 (C.A.D.C. 1952).

In an action for breach of a contract for the purchase and operation of a business by plaintiff, defendant, and another, evidence of the profit made by defendant and another out of the business held admissible. *Weigle v. Roller*, 295 F. 985, 1924 U.S. App. LEXIS 3267 (1924).

Evidence of general reputation is not admis-

sible to prove a partnership. *Wilson v. Colman*, 30 F.Cas. 119, 1807 U.S. App. LEXIS 504 (1807).

Assent of parties.

A partnership cannot exist without an agreement, express or implied, and relation of partners to one another are controlled by the terms of that agreement voluntarily entered into. *Holmes v. Keets*, 153 F.2d 132, 1946 U.S. App. LEXIS 1891 (1946).

Although rights and duties of partnership in respect to third parties can arise by law even though parties do not intend to become partners, relationship as between partners themselves is consensual. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Community of interest.

A merchant's salaried credit manager is not to be regarded as a partner merely because some account is taken of profits and losses in the regulation of his salary. *Talbert v. U.S.*, 42 App.D.C. 1, 1914 U.S. App. LEXIS 2229 (1914).

An agreement between borrower and lender which provides that, upon the sale of certain tax certificates delivered by the former to the latter as security for the loan, the lender shall share in profits that may be made upon the sale of the certificates, which profits are expressly promised in addition to the repayment of the loan and interest thereon, does not make the lender a partner of the borrower. *Slater v. Van Der Hoogt*, 23 App.D.C. 417, 1904 U.S. App. LEXIS 5268 (1904).

It two or more persons, without a special or express agreement to form a partnership, contribute to a fund to be invested, as occasion offers in notes, stocks, and the like, and agree to share the gains and losses thereof, they thereby become partners. *Robinson v. Parker*, 11 App.D.C. 132, 1897 U.S. App. LEXIS 3114 (1897).

Where there was no ongoing business relationship, profits were merely shared as a means of repaying the loan, there was no bona fide intent to form a partnership and so-called partnership was formed to take advantage of favorable deferral subscription income and not to carry on a business for profit, partnership did not exist between defendants, even though agreement was identified as one of partnership. D.C. Code 1981, §§ 41-101 et seq., 41-105, 41-106, 41-106(4)(A-E). In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

In order to constitute a partnership, the parties must have undertaken to carry on some sort of business together and to share in the profits thereof. In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

Whether there is a contract of partnership is dependent upon whether the parties to the alleged partnership are associated in an enterprise, to the establishment of which they have contributed services or property with a community of interest in profits as profits. In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

Partnership depends not only upon the community of interest in property and conducting the business for the community benefit of the partners, but in the joint ownership and division of profits as profits. In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

One who makes a loan of money or credit to the owner of a business in consideration of a share of its profits in repayment of such loan does not thereby become a partner in the business. In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

Question of determining whether a person advancing money and sharing profits is to be considered a creditor or a partner of the firm is primarily one of the facts and ordinarily to be decided in accordance with the legal intent of the parties as determined from the terms of the whole agreement, the nature of the transaction, and the conduct of the parties. In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

An agreement which secures to the lender the option to receive a share of the borrower's net profits, or to receive interest on the loan never operates as a contract of partnership but at most is merely an executory contract for partnership until the lender exercises the option of sharing the profits. In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

Proof of the existence of a partnership depends on evidence that the purported partners intended to associate together to carry on as co-owners for profit. D.C. Code 1981, § 41-105(a) (repealed). *Landise v. Mauro*, 725 A.2d 445, 1998 D.C. App. LEXIS 217 (1998), appeal dismissed by 927 A.2d 1026, 2007 D.C. App. LEXIS 321 (D.C. 2007).

For a partnership to arise in law, two or more persons must intend to associate together to carry on as coowners for profit. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Corporations.

Two parties who entered into partnership agreement contemplating formation of a corporation to operate cocktail lounge, secured certificate of incorporation, but did not transfer partnership assets to corporation did not convert partnership investment into corporate investment though bank account had been tenta-

tively opened in corporate name. *Haimes v. Noble*, 202 A.2d 917, 1964 D.C. App. LEXIS 269 (App. 1964).

Mere incorporation with intent to convert partnership business to corporate operation does not ipso facto transfer partnership property to corporation. *Haimes v. Noble*, 202 A.2d 917, 1964 D.C. App. LEXIS 269 (App. 1964).

Partnership which secured certificate of incorporation but did not pursue further measures implementing incorporation continued in existence, as partnership, capable of being dissolved. *Haimes v. Noble*, 202 A.2d 917, 1964 D.C. App. LEXIS 269 (App. 1964).

Creation, generally.

An agreement between the owners of unimproved property and a builder, in consideration of his assistance in improving and marketing the property to give him an undivided third interest therein, creates a partnership as to the developing and marketing of the property. *Campbell v. Northwest Eckington Imp. Co.*, 33 S.Ct. 796, 1913 U.S. LEXIS 2469 (U.S. Dist. Col. 1913).

Agreement for apportionment of selling agency work, division of profits, and common undertaking, held to create partnership. *Philips v. U.S.*, 59 F.2d 881, 1932 U.S. App. LEXIS 3476 (1932).

"Partnership" is contract of two or more competent persons to place their money, effects, labor, and skill, or some or all of them, in lawful business, and divide profit and bear loss in certain proportions. *Philips v. U.S.*, 59 F.2d 881, 1932 U.S. App. LEXIS 3476 (1932).

Agreement that corporation would aid in obtaining contract, and in procuring surety bond to guarantee its execution, and that individual would contribute his skill and plant and have control of the job, and that profits and losses would be shared equally, held not "contract of general partnership." *Cush v. Allen*, 13 F.2d 299, 1926 U.S. App. LEXIS 3542 (1926).

Adoption of a firm name furnishes an uncertain index to the existence of a partnership. *Fetherstonhaugh v. Moore*, 48 App.D.C. 35, 1918 U.S. App. LEXIS 2349 (1918).

A partnership between a person given full charge of a New York office for general practice of patents, trademarks, designs, and copyrights, and other parties to the contract, held not created by an agreement between them. *Fetherstonhaugh v. Moore*, 48 App.D.C. 35, 1918 U.S. App. LEXIS 2349 (1918).

A partnership is not created by an agreement between a builder and another whereby the latter is to purchase land upon which the builder is to erect houses, one-half of which, when completed and all indebtedness paid, are to be conveyed to the builder. *Wilkinson v. Lincoln*, 46 App.D.C. 193, 1917 U.S. App. LEXIS 2527 (1917).

Where the purchasers of land did not enter into a partnership for that purpose, nor use partnership funds in paying for it, and the adventure was single and special on joint account, involving the payment in equal proportions of designated sums of money, and there was a mere community of interest in the property, the purchasers were not partners, but tenants in common, against whom an action at law, by the executrix of one of them for disbursements made by him, upon an account stated, is maintainable. *MacPherson v. Harding*, 40 App.D.C. 404, 1913 U.S. App. LEXIS 2091 (1913).

Three limited partnerships formed under laws of Virginia had capacity to sue in their own names under District of Columbia law. *Shenandoah Assocs. L.P. v. Tirana*, 182 F.Supp.2d 14, 2001 U.S. Dist. LEXIS 23453 (2001).

Self-employed author and scientist was not partners with or members of partnership with federal agency, publisher of scientific journal, and broadcast corporation, and thus defendants did not violate statute establishing duty of partners to truthfully provide information involving their partnership by rejecting her unsolicited research proposal and manuscript involving theory for predicting earthquakes. D.C. Code 1981, § 41-119 (repealed). *Slaby v. Fairbridge*, 3 F.Supp.2d 22, 1998 U.S. Dist. LEXIS 4827 (1998).

Partnership agreement is not required to be in writing; partnership contract may be oral, and it may be inferred from parties' conduct. *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

None of customary attributes of partnership, e.g., profit and loss sharing and joint control of decision making, is conclusive in determining whether partnership exists. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Partnership contract may be oral and may be inferred from conduct of parties. D.C. Code §§ 41-305, 41-306. *Cooper v. Saunders-Hunt*, 365 A.2d 626, 1976 D.C. App. LEXIS 402 (1976).

A notice published in a newspaper that A. "is to have, after the 1st inst., an interest in our establishment," and signed by C.D. & Co., is not a declaration that A. is a partner, so as to make A. liable for a debt of the firm. *Vinson v. Beveridge*, 10 D.C. 597 (D.C. Sup. 1877).

Holding out as partners.

A provision in a partnership contract, that each partner shall pay his own individual expenses, must be understood as intended to apply when the parties were at home, and not when traveling on the business of the concern. Where a partner is absent from home, engaged in the business of the firm, he should be allowed

for the whole of his personal expenses while abroad, and not merely the excess of such expenses above what they would have been at home. *Withers v. Withers*, 33 U.S. 355, 1834 U.S. LEXIS 594 (U.S. Dist. Col. 1834).

Partner held estopped to deny that he was owner of interest claimed by him for purpose of defeating garnishment thereof. *McGrath v. McGrath*, 4 F.2d 297, 1925 U.S. App. LEXIS 2956 (1925).

Partner held estopped to claim beneficial ownership of interest in partnership ostensibly owned by his brother. *McGrath v. McGrath*, 4 F.2d 297, 1925 U.S. App. LEXIS 2956 (1925).

Where parties advertise as partners and use a partnership name, they become partners by estoppel as to third persons dealing with them on the faith of such representations, but as between themselves their relations as partners depend upon contract express, or reasonably to be implied from all of the circumstances; and, when one of the parties alleges the existence of a general partnership, the burden of proof is upon him to so show. *Smith v. Lancaster*, 37 App. D.C. 25, 1911 U.S. App. LEXIS 5624 (1911).

All of the elements of estoppel must be shown to establish liability as a partner on ground that person to be charged held himself out or knowingly permitted others to hold him out as a partner. *Orndorff v. Cohen*, 62 A.2d 794, 1948 D.C. App. LEXIS 234 (Cr.App. 1948).

Where liability as a partner depends on fact that one has been held out by another as a partner, it must appear that person so held out consented in fact to holding out or, when fact of the holding out came to his knowledge, negligently failed to assert nonexistence of partnership in time to prevent others from relying thereon. *Orndorff v. Cohen*, 62 A.2d 794, 1948 D.C. App. LEXIS 234 (Cr.App. 1948).

The knowledge or assent to being held out as a partner may be inferred from appropriate circumstances, but, in general, such a partnership cannot be established by proof of general reputation and such proof is as a rule inadmissible to establish existence of a partnership, since it is mere hearsay. *Orndorff v. Cohen*, 62 A.2d 794, 1948 D.C. App. LEXIS 234 (Cr.App. 1948).

Persons who hold themselves out or knowingly permit others to hold them out as partners become bound as partners to all who deal with them in their apparent relation. *Orndorff v. Cohen*, 62 A.2d 794, 1948 D.C. App. LEXIS 234 (Cr.App. 1948).

Where two partners agreed with their salesman to associate his name with the firm, and a notice was published in a newspaper of large circulation, stating that the salesman was to have an interest in the establishment, mere proof of the publication was not sufficient to show that a creditor had notice of the sales-

man's interest. *Vinson v. Beveridge*, 10 D.C. 597 (D.C. Sup. 1877).

In general.

Partners are free to set specific rules of their partnership according to their objectives and desires, within framework established by common law and by Uniform Partnership Act. D.C. Code 1981, §§ 41-117 to 41-123. *Singer v. Scher*, 761 F. Supp. 145, 1991 U.S. Dist. LEXIS 2061 (1991).

Unlike corporations, which are fictitious entities recognized by state, partnerships have no legal existence in District of Columbia and are not jural entities capable of suing or being sued. *Anderson v. Hall*, 755 F. Supp. 2, 1991 U.S. Dist. LEXIS 121 (1991).

Intent of parties.

In determining whether or not a particular contract or transaction constitutes a partnership between the parties, court must ascertain intention of the parties by reference to entire transaction. D.C. Code 1981, §§ 41-101 et seq., 41-105, 41-106, 41-106(4)(A-E). In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

If intention of parties is to form an agreement under which group may take advantage of a tax shelter, and method by which the parties have planned to accomplish this end is to term the agreement a partnership agreement, mere identification of the agreement as one of partnership will not create a partnership if the other requisites of partnership are not present. D.C. Code 1981, §§ 41-101 et seq., 41-105, 41-106, 41-106(4)(A-E). In re Washington Communications Group, Inc., 18 B.R. 437, 1982 Bankr. LEXIS 4902 (1982).

Although manner in which parties themselves characterize relationship is probative to issue of whether partnership exists, ultimate question is whether parties intended to do acts that in law constitute partnership. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Presumptions and burden of proof.

In action for damages for alleged breach of oral agreement to form partnership to purchase for development a tract of real estate, burden of proving laches rested more heavily on individual defendants by reason of their family relationship than would be case where no such family relationship existed. *Libby v. L. J. Corp.*, 247 F.2d 78, 1957 U.S. App. LEXIS 3667 (C.A.D.C. 1957).

It is not incumbent on joint plaintiffs to prove that they are joint partners. *Woodward v. Sutton & Mandeville*, 30 F.Cas. 560, 1806 U.S. App. LEXIS 646 (1806).

Weight and sufficiency of evidence.

Evidence would not sustain finding that defendant and person who requested plaintiff to

perform services had been partners or joint adventurers. *Rem. Supp. Wash.* 1945, §§ 9975-41, 9975-45. *Dulien v. St. Lewis*, 198 F.2d 301, 1952 U.S. App. LEXIS 3179 (C.A.D.C. 1952).

In an action for breach of contract for the joint purchase of a business by plaintiff, defendant, and another, evidence held to warrant finding that plaintiff had not abandoned his contract with owner prior to defendant's secret purchase of the business from owner. *Weigle v. Roller*, 295 F. 985, 1924 U.S. App. LEXIS 3267 (1924).

In an action for breach of a contract for the purchase and operation of a business by plaintiff, defendant, and another, held, that a partnership agreement between defendant and another for the purchase of the business was admissible to show that defendant had prevented plaintiff from performing the contract in action. *Weigle v. Roller*, 295 F. 985, 1924 U.S. App. LEXIS 3267 (1924).

Where the legal title to real estate is in trustees, and the beneficial ownership is in the holders of certificates issued by the trustees, showing the undivided interest of the respective holders, which are subject to assessment for expenses incurred in the execution of the trust, the certificate holders are tenants in common, and not partners; and a bill in equity by one of them for dissolution of the supposed partnership and sale of the property will be dismissed. *Starkweather v. Dyer*, 30 App.D.C. 146, 1907 U.S. App. LEXIS 5506 (1907).

In the absence of proof of its purchase with partnership funds for partnership purposes, real property standing in the names of several persons is deemed to be held by them as joint tenants, or tenants in common, and not as partners. *Starkweather v. Dyer*, 30 App.D.C. 146, 1907 U.S. App. LEXIS 5506 (1907).

In a suit in equity for a partnership accounting between the administrator of a deceased partner and the surviving partner for attorney fees due the partnership for prosecuting claims against the government collected by the surviving partner, evidence that the deceased partner during his lifetime did not actively participate in the work of prosecuting the claims will not support a defense that the partnership had become dissolved by his abandonment of his

duties thereunder, where there is nothing in the partnership articles to show the nature of the services to be performed by each of the partners, and it does not appear that the deceased was ever called on, or even expected, to perform any, and the surviving partner testifies that in fact it was no partnership, but merely an employment of him by the deceased to attend to his business in the court of claims. *Consaul v. Cummings*, 24 App.D.C. 36, 1904 U.S. App. LEXIS 5295 (1904).

Evidence did not support claim that trustee of Massachusetts business trust was a partner with cotrustee rendering him liable under partnership by admission or estoppel theory for payment of purchase money note which represented payment for sale of lease to trust; while trustees may have referred to each other as partners, their statements could not be taken as literal where the documents, including original letter of agreement, were signed by each trustee as "trustee" and documents described trust as a "business trust." D.C. Code 1981, § 41-115. *Inside Scoop, Inc. v. Curry*, 755 F. Supp. 426, 1989 U.S. Dist. LEXIS 11285 (1989), affirmed by 923 F.2d 201, 287 U.S. App. D.C. 378, 1991 U.S. App. LEXIS 10707 (1991).

In an action on a note, where the plaintiff firm produces on trial the note indorsed to them by the firm name, there is prima facie evidence of the existence of the partnership. *Charles Maret & Son v. Wood*, 16 F.Cas. 713, 1826 U.S. App. LEXIS 369 (1826).

Evidence in personal injury action was insufficient to permit jury to consider issue of implied partnership. *Johnson v. Weinberg*, 434 A.2d 404, 1981 D.C. App. LEXIS 331 (1981).

In action for accounting of proceeds accruing under partnership, evidence supported trial court's finding that partnership was established between parties. D.C. Code §§ 41-305, 41-306. *Cooper v. Saunders-Hunt*, 365 A.2d 626, 1976 D.C. App. LEXIS 402 (1976).

Evidence justified finding that a brother owned a half interest in purchase of a beauty parlor business as a partner and that when sister sold it she became obligated to him for one half of the sale price. *Boyle v. Smith*, 64 A.2d 428, 1949 D.C. App. LEXIS 158 (Cr.App. 1949).

§ 29-602.03. Partnership property.

Property acquired by a partnership shall be property of the partnership and not of the partners individually.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 33-102.03.
1981 Ed., § 41-152.3.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 203 of the Uniform Partnership Act (1997 Act).

CASE NOTES

ANALYSIS

Common law.

—Distribution upon death, common law.

—In general.

In general.

Intention of parties, generally.

Common law.

— Distribution upon death, common law.

Testator, who had been in partnership with his brother in a brick-making business, constituted his brother and his son his executors and trustees, directing them to continue the partnership business. Testator had also been engaged in some transactions apart from his brother, and just before his death his daughter heard a neighbor tell him that he would give him a deed for some lots. Several years afterwards this neighbor conveyed to the executors, for a nominal consideration, several lots from a square adjoining land owned by the partnership, to be held upon the trusts stated in the will. This square had been used by the partnership in the brick business. The trustees sold the lots thus received, and accounted to the legatees for only one-half the proceeds, for which they receipted in due form. Held, that under a bill filed 11 years after this distribution, and after both executors were dead, it would be presumed that this property was bought with partnership funds, and did not belong solely to the testator. *Hammond v. Hopkins*, 12 S.Ct. 418, 1892 U.S. LEXIS 2021 (U.S. Dist. Col. 1892).

Under common law, partners had power to reach express or implied agreement that partnership real estate would be used entirely for partnership purposes, but portion of realty not necessary for partnership claims descended as realty at death unless specific contrary intention was shown. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

— In general.

Where plaintiff knew, when he signed partnership agreement with defendant to operate a single named hotel, that defendant owned another hotel and partially improved realty immediately adjacent to it, addition to defendant's hotel was not within scope of partnership and plaintiff was not entitled to have the addition declared a partnership asset. *Holmes v. Keets*,

153 F.2d 132, 1946 U.S. App. LEXIS 1891 (1946).

Where plaintiff knew at time of entering into partnership agreement for operation of hotel that defendant was operating nearby hotel under a lodging house license, and that he owned three adjacent properties on which there were three old frame dwellings, new buildings placed on adjacent properties by defendant in connection with his hotel buildings did not become partnership assets at plaintiff's option. *Holmes v. Keets*, 58 F.Supp. 660, 1945 U.S. Dist. LEXIS 2590 (D.D.C.1945).

Under common law, partners could hold partnership realty in joint tenancy as long as rights of partnership creditors were protected. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

Under common law, it was presumed that real property acquired in names of more than one partner was held in common rather than in joint tenancy. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

At common law, partners were not legally incapable of holding realty in joint tenancy if they made clear their intention to do so and if four essential characteristics of joint tenancy, i.e., unity of interest, unity of title, unity of time, and unity of possession were present. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

In general.

Partnership holds and conveys property separately and distinctly from the individual who holds an interest in the partnership. *Cowan v. District of Columbia Dep't of Finance & Revenue*, 454 A.2d 814, 1983 D.C. App. LEXIS 290 (1983).

Manner in which partnership real estate was held was to be analyzed with reference to common-law partnerships, where real estate was acquired before adoption of Uniform Partnership Act. D.C. Code § 41-301 et seq. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

Intention of parties, generally.

Intention of parties governs in determining what constitutes partnership property; record title is not determinative. *Price v. District of Columbia Rental Housing Com.*, 512 A.2d 263, 1986 D.C. App. LEXIS 369 (1986).

§ 29-602.04. When property is partnership property.

(a) Property shall be partnership property if acquired in the name of:

- (1) The partnership; or
- (2) One or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership but without an indication of the name of the partnership.

(b) Property shall be acquired in the name of the partnership by a transfer to:

- (1) The partnership in its name; or
- (2) One or more partners in their capacity as partners in the partnership, if the name of the partnership is indicated in the instrument transferring title to the property.

(c) Property shall be presumed to be partnership property if purchased with partnership assets, even if not acquired in the name of the partnership or of one or more partners with an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership.

(d) Property acquired in the name of one or more of the partners, without an indication in the instrument transferring title to the property of the person's capacity as a partner or of the existence of a partnership and without use of partnership assets, shall be presumed to be separate property, even if used for partnership purposes.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 33-102.04.

1981 Ed., § 41-152.4.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 204 of the Uniform Partnership Act (1997 Act).

CASE NOTES

ANALYSIS

Common law.

—Distribution upon death, common law.

—In general.

In general.

Intention of parties, generally.

Common law.

— Distribution upon death, common law.

Testator, who had been in partnership with his brother in a brick-making business, constituted his brother and his son his executors and trustees, directing them to continue the partnership business. Testator had also been engaged in some transactions apart from his brother, and just before his death his daughter heard a neighbor tell him that he would give him a deed for some lots. Several years afterwards this neighbor conveyed to the executors,

for a nominal consideration, several lots from a square adjoining land owned by the partnership, to be held upon the trusts stated in the will. This square had been used by the partnership in the brick business. The trustees sold the lots thus received, and accounted to the legatees for only one-half the proceeds, for which they receipted in due form. Held, that under a bill filed 11 years after this distribution, and after both executors were dead, it would be presumed that this property was bought with partnership funds, and did not belong solely to the testator. *Hammond v. Hopkins*, 12 S.Ct. 418, 1892 U.S. LEXIS 2021 (U.S. Dist. Col. 1892).

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realty at death unless specific contrary intention was shown. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

— **In general.**

Where plaintiff knew, when he signed partnership agreement with defendant to operate a single named hotel, that defendant owned another hotel and partially improved realty immediately adjacent to it, addition to defendant's hotel was not within scope of partnership and plaintiff was not entitled to have the addition declared a partnership asset. *Holmes v. Keets*, 153 F.2d 132, 1946 U.S. App. LEXIS 1891 (1946).

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one partner was held in common rather than in joint tenancy. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

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Manner in which partnership real estate was held was to be analyzed with reference to common-law partnerships, where real estate was acquired before adoption of Uniform Partnership Act. D.C. Code § 41-301 et seq. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

Intention of parties, generally.

Intention of parties governs in determining what constitutes partnership property; record title is not determinative. *Price v. District of Columbia Rental Housing Com.*, 512 A.2d 263, 1986 D.C. App. LEXIS 369 (1986).

Subchapter III. Relations of Partners to Persons Dealing with Partnership.

§ 29-603.01. Partner agent of partnership.

Subject to the effect of a statement of partnership authority under § 29-603.03:

(1) Each partner shall be an agent of the partnership for the purpose of its business.

(2) An act of a partner, including the execution of an instrument in the partnership name, for apparently carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership shall bind the partnership, unless the partner had no authority to act for the partnership in the particular matter and the person with whom the partner was dealing knew or had received a notification that the partner lacked authority.

(3) An act of a partner which is not apparently for carrying on in the ordinary course the partnership business or business of the kind carried on by the partnership shall bind the partnership only if the act was authorized by the other partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-603.02, § 29-604.01, § 29-607.02, § 29-608.04, and § 29-608.05.

Prior Codifications. — 2001 Ed., § 33-103.01.

1981 Ed., § 41-153.1.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 301 of the Uniform Partnership Act (1997 Act).

CASE NOTES

ANALYSIS

Agency.

Apparent authority.

Liability of partners.

Management of affairs.

Power to bind, generally.

Agency.

Each partner is not only agent for partnership, but agent for other partner. *Philips v. U.S.*, 59 F.2d 881, 1932 U.S. App. LEXIS 3476 (1932).

Act of one partner, within scope of partnership business, binds all partners on theory of implied mutual delegation of authority. *Coles v. Redskin Realty Co.*, 184 A.2d 923, 1962 D.C. App. LEXIS 395 (Cr.App. 1962).

Apparent authority.

Under District of Columbia law, one partner can be estopped from denying other partner's authority if third party has reasonably relied upon apparent authority of acting partner and has been misled by conduct of nonacting partner. *Pellegrin & Levine, Chartered v. Antoine*, 961 F.2d 277, 1992 U.S. App. LEXIS 7589 (C.A.D.C. 1992).

Liability of partners.

A secret partner is liable, not because credit is supposed to have been given to the partnership by reason of his connection with it, but because he is one of the contracting parties and is benefited by the contract; and in order to charge him with the debts of the firm of which he is a dormant member, it is necessary to show that such debts were contracted in the name and business which was within the scope of the partnership, or that he had an interest in the transaction or the profits. *Mason v. Clapham*, 42 App.D.C. 481, 1914 U.S. App. LEXIS 2316 (1914).

A dormant partner of a brokerage firm operating solely on a local exchange which deals only in outright purchases and sales for cash is not liable to a third person, who did not know of his connection with the firm, for the proceeds of a marginal transaction between the third person and the active partner, where the latter customarily carried on marginal transactions and dealt on another exchange, and the dor-

mant partner received no profit from such transactions, including the one in question. *Mason v. Clapham*, 42 App.D.C. 481, 1914 U.S. App. LEXIS 2316 (1914).

In an action on a note signed by one person, where plaintiff seeks to charge another person as a secret partner of the one who signed the note, the secret partner is not liable unless the money obtained by the discount of the note came to the use of the secret partnership. *Bank of Alexandria v. Mandeville*, 2 F.Cas. 614, 1809 U.S. App. LEXIS 233 (1809).

Under Rev.St. § 827, where money is payable by a partnership, a separate action can be maintained against any one of the firm, and it is immaterial whether the fact that the money is payable jointly appears on the face of the declaration or from the evidence; and a demurrer on the ground that such an action cannot be maintained is frivolous, and, under rule 31 of this court, will be stricken out on motion, and judgment for the amount claimed will be entered at once for plaintiff. *Chesley v. Riley*, 20 D.C. 166 (D.C.Sup. 1891).

Management of affairs.

Absent agreement to the contrary, all partners have equal rights to manage affairs of partnership and every partner is agent of partnership with respect to partnership business. *Berk v. Sherman*, 682 A.2d 209, 1996 D.C. App. LEXIS 180 (1996).

Power to bind, generally.

During continuance of partnership, act of one partner within scope of business binds all partners. *Pottash Bros. v. Burnet*, 50 F.2d 317, 1931 U.S. App. LEXIS 4450 (1931).

A written contract by one of two joint partners, made in his own name, does not bind the other partner, although the money obtained thereby is brought into the joint concern. *Smith v. Hoffman*, 22 F.Cas. 566, 1826 U.S. App. LEXIS 385 (1826).

Under District of Columbia law, act of partner which is not apparently for carrying on of business of partnership in usual way does not bind partnership unless authorized by other partners. D.C. Code 1981, § 41-108(b). *Federal Kemper Life Assurance Co. v. Wolensky's L.P.* (In re Wolensky's Ltd. Partnership), 163 B.R. 615, 1993 Bankr. LEXIS 2053 (1993).

§ 29-603.02. **Transfer of partnership property.**

(a) Partnership property may be transferred as follows:

(1) Subject to the effect of a statement of partnership authority under § 29-603.03, partnership property held in the name of the partnership may be transferred by an instrument of transfer executed by a partner in the partnership name.

(2) Partnership property held in the name of one or more partners with an indication in the instrument transferring the property to them in their capacity as partners or of the existence of a partnership, but without an indication of the name of the partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(3) Partnership property held in the name of one or more persons other than the partnership, without an indication in the instrument transferring the property to them in their capacity as partners or of the existence of a partnership, may be transferred by an instrument of transfer executed by the persons in whose name the property is held.

(b) A partnership may recover partnership property from a transferee only if it proves that execution of the instrument of initial transfer did not bind the partnership under § 29-603.01 and:

(1) As to a subsequent transferee who gave value for property transferred under subsection (a)(1) and (2) of this section, proves that the subsequent transferee knew or had received a notification that the person that executed the instrument of initial transfer lacked authority to bind the partnership; or

(2) As to a transferee who gave value for property transferred under subsection (a)(3) of this section, proves that the transferee knew or had received a notification that the property was partnership property and that the person that executed the instrument of initial transfer lacked authority to bind the partnership.

(c) A partnership shall not recover partnership property from a subsequent transferee if the partnership would not have been entitled to recover the property, under subsection (b) of this section, from any earlier transferee of the property.

(d) If a person holds all of the partners' interests in the partnership, all of the partnership property shall vest in that person. The person may execute a document in the name of the partnership to evidence vesting of the property in that person and may file or record the document.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-609.04.

Prior Codifications. — 2001 Ed., § 33-103.02.

1981 Ed., § 41-153.2.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 302 of the Uniform Partnership Act (1997 Act).

§ 29-603.03. Statement of partnership authority.

(a) A partnership may deliver to the Mayor for filing a statement of partnership authority, which:

(1) Shall include:

(A) The name of the partnership;

(B) The street address of its principal office and of one office in District, if there is one;

(C) The names and mailing addresses of all of the partners or of an agent appointed and maintained by the partnership for the purposes of subsection (b) of this section; and

(D) The names of the partners authorized to execute an instrument transferring real property held in the name of the partnership; and

(2) May state the authority, or limitations on the authority, of some or all of the partners to enter into other transactions on behalf of the partnership and any other matter.

(b) If a statement of partnership authority names an agent, the agent shall maintain a list of the names and mailing addresses of all of the partners and make it available to any person on request for good cause shown.

(c) If a filed statement of partnership authority is executed pursuant to § 29-601.05(c) and states the name of the partnership, but does not contain all of the other information required by subsection (a) of this section, the statement shall nevertheless operate with respect to a person not a partner as provided in subsections (d) and (e) of this section.

(d) Except as otherwise provided in subsection (g) of this section, a filed statement of partnership authority shall supplement the authority of a partner to enter into transactions on behalf of the partnership as follows:

(1) Except for transfers of real property, a grant of authority contained in a filed statement of partnership authority shall be conclusive in favor of a person that gives value without knowledge to the contrary, so long as and to the extent that a limitation on that authority is not then contained in another filed statement. A filed cancellation of a limitation on authority shall revive the previous grant of authority.

(2) A grant of authority to transfer real property held in the name of the partnership contained in a certified copy of a filed statement of partnership authority recorded in the office for recording transfers of that real property shall be conclusive in favor of a person that gives value without knowledge to the contrary, so long as and to the extent that a certified copy of a filed statement containing a limitation on that authority is not then of record in the office for recording transfers of that real property. The recording in the office for recording transfers of that real property of a certified copy of a filed cancellation of a limitation on authority shall revive the previous grant of authority[.]

(e) A person not a partner shall be deemed to know of a limitation on the authority of a partner to transfer real property held in the name of the partnership if a certified copy of the filed statement containing the limitation on authority is of record in the office for recording transfers of that real property.

(f) Except as otherwise provided in subsections (d) and (e) of this section and §§ 29-607.04 and 29-608.05, a person not a partner shall not be deemed to know of a limitation on the authority of a partner merely because the limitation is contained in a filed statement.

(g) Unless earlier canceled, a filed statement of partnership authority shall be canceled by operation of law 5 years after the date on which the statement, or the most recent amendment, was delivered to the Mayor for filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(3)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.03, § 29-603.01, § 29-603.02, § 29-603.04, § 29-607.02, § 29-607.03, § 29-607.04, and § 29-608.05.

Prior Codifications. — 2001 Ed., § 33-103.03.

1981 Ed., § 41-153.3.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “deliver to the Mayor for filing” for “file” in (a); and substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (g).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 303 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Limitations on liability.

A provision in the articles of a banking association that any person dealing with them “disavows having recourse, on any pretense whatever, to the person or separate property of any present or future member of the company,” does

not prevent the recovery of a judgment against the individual members, brought by a laborer employed by such members and with whom he contracted. *Davis v. Beverly*, 7 F.Cas. 112, 1811 U.S. App. LEXIS 247 (1811).

§ 29-603.04. Statement of denial.

A partner or other person named as a partner in a filed statement of partnership authority or in a list maintained by an agent pursuant to § 29-603.03(b) may deliver to the Mayor for filing a statement of denial stating the name of the partnership and the fact that is being denied, which may include denial of a person’s authority or status as a partner. A statement of denial shall be a limitation on authority as provided in § 29-603.03(d) and (e).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(3)(B), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 33-103.04.

1981 Ed., § 41-153.4.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “deliver to the Mayor for filing” for “file.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 304 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-603.05. Partnership liable for partner's actionable conduct.

(a) A partnership shall be liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(b) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership shall be liable for the loss.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 33-103.05.

1981 Ed., § 41-153.5.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 305 of the Uniform Partnership Act (1997 Act).

§ 29-603.06. Partner's liability.

(a) Except as otherwise provided in subsections (b) and (c) of this section, all partners shall be liable jointly and severally for all debts, obligations, or other liabilities of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership shall not be personally liable for any partnership debt, obligation, or other liability incurred before the person's admission as a partner.

(c) An obligation of a partnership incurred while the partnership is a limited liability partnership, whether arising in contract, tort, or otherwise, shall be solely the debt, obligation, or other liability of the partnership. A partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for such a debt, obligation, or other liability solely by reason of being or so acting as a partner. This subsection shall apply notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under § 29-610.01(b).

(d) The failure of a limited liability partnership to observe any formalities relating to the exercise of its powers or management of its business is not a ground for imposing liability on any partner of the partnership for any debt, obligation, or other liability of the partnership.

(e) The cancellation or administrative revocation of a limited liability partnership's statement of qualification does not affect this section's limitation on the liability of a partner for a debt, obligation, or other liability of the partnership incurred while the statement was in effect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(3)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.02, § 29-603.07, § 29-607.03, § 29-608.06, § 29-608.07, § 29-608.08, § 29-608.09, § 29-608.11, and § 29-609.03.

Prior Codifications. — 2001 Ed., § 33-103.06.

1981 Ed., § 41-153.6.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “debt, obligation, or other liability” or a variant thereof for “obligation” or a variant thereof in (a), (b), and (c); and added (d) and (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 306 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Bankruptcy.
Fraud.
Personal property.
Time of wrongful act.

Bankruptcy.

Fraud and breach of fiduciary duty claims asserted by banking corporation against former law partner of attorneys, who had advised corporation in connection with acquisition of bank which gave rise to criminal charges, were not discharged by partner’s “no asset” personal bankruptcy; partner was not charged merely with vicarious liability, but with breach of duties owed to corporation, and alleged fraud of attorneys could be imputed to partner as debtor regardless of his actions or knowledge. Bankr.Code, 11 U.S.C. § 523(a)(2), 4). BCCI Holdings (Luxembourg), S.A. v. Clifford, 964 F. Supp. 468, 1997 U.S. Dist. LEXIS 7205 (1997).

Partners are fiduciaries within meaning of Bankruptcy Code’s exception to discharge for debts obtained by fraud or defalcation while acting in fiduciary capacity. Bankr.Code, 11 U.S.C. § 523(a)(4). BCCI Holdings (Luxembourg), S.A. v. Clifford, 964 F. Supp. 468, 1997 U.S. Dist. LEXIS 7205 (1997).

Fraud.

Alleged fraud by debtor’s partners can be imputed to him as a debtor, regardless of his actions or knowledge. BCCI Holdings (Luxem-

bourg), S.A. v. Clifford, 964 F. Supp. 468, 1997 U.S. Dist. LEXIS 7205 (1997).

Personal property.

Partner’s individual liability for partnership debts does not theoretically preclude partner’s holding “partnership” property as well as “personal” property, both of which are exposed to claims for partnership debts. Lenkin on behalf of 14th & Eye Streets Assoc. v. Beckman, 575 A.2d 273, 1990 D.C. App. LEXIS 120 (1990).

Time of wrongful act.

District of Columbia statute governing partner’s liability for wrongful acts of his or her partners requires only that he be partner when wrongful act or omission occurs, and while injury is prerequisite to recovery, resulting injury need not have occurred while partner was still in partnership. D.C. Code 1981, § 41-112. BCCI Holdings (Luxembourg), S.A. v. Clifford, 964 F. Supp. 468, 1997 U.S. Dist. LEXIS 7205 (1997).

Former law partner of attorneys who had been member of firm at time attorneys advised corporation in connection with acquisition of bank, which gave rise to later criminal charges, could be held liable under District of Columbia law for wrongful acts of attorneys, even though injury to corporation was not manifested until after partner had left firm. D.C. Code 1981, § 41-112. BCCI Holdings (Luxembourg), S.A. v. Clifford, 964 F. Supp. 468, 1997 U.S. Dist. LEXIS 7205 (1997).

§ 29-603.07. Actions by and against partnership and partners.

- (a) A partnership may sue and be sued in the name of the partnership.
- (b) Except as otherwise provided in subsection (f) of this section, action may be brought against the partnership and, to the extent not inconsistent with § 29-603.06, any or all of the partners in the same action or in separate actions.
- (c) A judgment against a partnership shall not by itself be a judgment

against a partner. A judgment against a partnership shall not be satisfied from a partner's assets unless there is also a judgment against the partner.

(d) A judgment creditor of a partner may not levy execution against the assets of the partner to satisfy a judgment based on a claim against the partnership unless the partner is personally liable for the claim under § 29-603.06 and:

(1) A judgment based on the same claim has been obtained against the partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The partnership is a debtor in bankruptcy;

(3) The partner has agreed that the creditor need not exhaust partnership assets;

(4) A court grants permission to the judgment creditor to levy execution against the assets of a partner based on a finding that partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) Liability is imposed on the partner by law or contract independent of the existence of the partnership.

(e) This section shall apply to any partnership debt, obligation, or other liability resulting from a representation by a partner or purported partner under § 29-603.08.

(f) A partner is not a proper party to an action against a partnership if that partner is not personally liable for the claim under § 29-603.06.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(3)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04.

Prior Codifications. — 2001 Ed., § 33-103.07.

1981 Ed., § 41-153.7.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "debt, obligation, or other liability" for "liability or obligation" in (e); and substituted "is not" for "shall not be" in (f).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 307 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Bankruptcy.

Common law partnership status.

Garnishment against firms or partners.

Instructions.

Laches.

Parties.

Pleading.

Presumptions and burden of proof.

Process and appearance.

Questions of law and fact.

Weight and sufficiency of evidence.

Bankruptcy.

Fixing of damages against partnership, in proceeding in which all partners are parties and all partners have been found liable, therefore necessarily fixes liability of individual partners, except for any individual defense such as discharge in partner's own bankruptcy case, or later payment. D.C. Code 1981, § 41-

114. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

Common law partnership status.

Under District of Columbia law, unincorporated associations may not sue or be sued in their own names. *Catalyst & Chem. Servs. v. Global Ground Support*, 350 F.Supp.2d 1, 2004 U.S. Dist. LEXIS 25069 (2004), dismissed by 132 Fed. Appx. 837, 2005 U.S. App. LEXIS 10228 (Fed. Cir. 2005), affirmed without opinion by 173 Fed. Appx. 825, 2006 U.S. App. LEXIS 6947 (Fed. Cir. 2006).

Partnerships in District of Columbia are not capable of suing or being sued. *Shoreham Hotel Ltd. Partnership v. Wilder*, 866 F. Supp. 1, 1994 U.S. Dist. LEXIS 15277 (1994).

Unlike corporations, which are fictitious entities recognized by state, partnerships have no legal existence in District of Columbia and are not jural entities capable of suing or being sued. *Anderson v. Hall*, 755 F. Supp. 2, 1991 U.S. Dist. LEXIS 121 (1991).

Under common-law rule in District of Columbia partnership cannot sue or be sued as a separate entity. *Day v. Sidley & Austin*, 394 F. Supp. 986, 1975 U.S. Dist. LEXIS 12145 (1975), affirmed by 548 F.2d 1018, 179 U.S. App. D.C. 63, 1976 U.S. App. LEXIS 6316 (1976).

Garnishment against firms or partners.

Partner's claim of beneficial ownership of garnished interest of another partner held not to divest garnished partner of legal status as such. *McGrath v. McGrath*, 4 F.2d 297, 1925 U.S. App. LEXIS 2956 (1925).

Instructions.

A prayer for instruction that if the jury should find the facts which they were instructed would constitute a partnership, "then they are instructed that such relationship could not be affected by subsequent declarations by any one or all of the parties concerned," is erroneous, as tending to exclude from the consideration of the jury the effect of such declarations on the question of whether such facts actually existed. *Robinson v. Parker*, 11 App.D.C. 132, 1897 U.S. App. LEXIS 3114 (1897).

Laches.

What constitutes laches must depend upon the circumstances of each particular case. A delay of three years by one partner in bringing suit to avoid a sale of a partnership interest on the ground of fraud, held, under the circumstances of the case, not to be unreasonable. *Baker v. Cummings*, 4 App.D.C. 230, 1894 U.S. App. LEXIS 3334 (1894).

Parties.

In a suit against partners for a debt due by them alone, the nonjoinder of any member of

the firm may be pleaded, as in cases of other joint contractors. *Barry v. Foyles*, 26 U.S. 311, 1828 U.S. LEXIS 410 (U.S. Dist. Col. 1828).

Under District of Columbia law, action against partnership must be brought in names of individual partners and each partner must be served individually. *Pellegrin & Levine, Chartered v. Antoine*, 961 F.2d 277, 1992 U.S. App. LEXIS 7589 (C.A.D.C. 1992).

An action is maintainable against some of the members of a partnership, unless they plead in abatement the nonjoinder of their copartners; and such a plea must set forth the names of all the partners, so as to give the plaintiff a better writ. *Parker v. Heald*, 29 App.D.C. 35, 1907 U.S. App. LEXIS 5425 (1907).

Where a libel is published concerning a partnership business, each partner may sue separately for the injuries he has sustained, or all may join in one suit. *Wills v. Jones*, 13 App.D.C. 482, 1898 U.S. App. LEXIS 3232 (1898).

Three limited partnerships formed under laws of Virginia had capacity to sue in their own names under District of Columbia law. *Shenandoah Assocs. L.P. v. Tirana*, 182 F.Supp.2d 14, 2001 U.S. Dist. LEXIS 23453 (2001).

In the District of Columbia, a partnership may not be sued in its common name and the action must be brought in names of the partners, with service of process on them individually. *Affie, Inc. v. Nurel Enterprises, Inc.*, 607 F. Supp. 220, 1984 U.S. Dist. LEXIS 23395 (1984).

Where by special act of Congress an amount was awarded to partnership for performance of work on behalf of government during war and it appeared that in making award Congress intended that it should be in full and final payment of partnership's claim including amounts for services and expenses of persons performing work for partnership, persons performing such services for partnership were entitled to judgment against partners individually and the partnership, as well as judgments against fund on deposit. *Luff v. Luff*, 158 F.Supp. 311, 1958 U.S. Dist. LEXIS 2741 (D.D.C.1958).

When person is co-tenant with others, or member of co-partnership that person may not maintain action against party obligated to such co-tenants or co-partnership jointly without all parties so interested being joined. *Rosen v. Rex Amusement Co.*, 14 F.R.D. 75, 1952 U.S. Dist. LEXIS 3582 (D.D.C.1952).

Where members of co-partnership which leased theatre allegedly wrongfully mortgaged their portions of realty and consented to loan by lessee to a partner by reason of which loan rent was not paid to non-consenting partner, situation required action by non-consenting partner against co-partners in jurisdiction where co-partners could be brought in for relief by way of accounting, dissolution and appointment of receiver of partnership's assets. *Rosen v. Rex*

Amusement Co., 14 F.R.D. 75, 1952 U.S. Dist. LEXIS 3582 (D.D.C.1952).

To support a plea in abatement, for not naming all the joint promisors, it is not necessary for defendant to prove that plaintiff knew he was dealing with a partnership. *Norwood v. Sutton*, 18 F.Cas. 458, 1806 U.S. App. LEXIS 572 (1806).

If the goods sold belonged to a partnership at the time of sale, the action for the purchase price must be brought in the name of all the partners, although the defendant was ignorant of the partnership. *Bennett v. Scott*, 3 F.Cas. 231, 1806 U.S. App. LEXIS 408 (1806).

In District of Columbia, suit is brought against partnership by naming and serving all of partners of that partnership. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

A partnership at common law is not a legal entity, but only a contractual status, and suits affecting partnership matters therefore must be brought by or against the members of the firm. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Rule precluding suit against partnership entity does not prevent suit against partnership through action against individual partners. *Lenkin on behalf of 14th & Eye Streets Assoc. v. Beckman*, 575 A.2d 273, 1990 D.C. App. LEXIS 120 (1990).

Pleading.

A plea of the statute of limitations which is good as to one partner bars them both in a joint action. *Marsteller v. McClean*, 7 Cranch 156, 11 U.S. 156, 3 L.Ed. 300, 1812 U.S. LEXIS 380 (U.S.Dist.Col. 1812).

In an action against a banking firm, affidavit of defense stating that the defendant had retired from the firm before date of balance held insufficient. *Mearns v. Harris*, 45 App.D.C. 536, 1917 U.S. App. LEXIS 2478 (1917).

In an action on a note, where the defendant pleads the general issue, he admits the right of the plaintiffs to sue in their firm name, without proving the partnership. *Charles Maret & Son v. Wood*, 16 F.Cas. 713, 1826 U.S. App. LEXIS 369 (1826).

A declaration on a bill of exchange, payable to a firm, must aver that plaintiffs were joint partners or traders under the firm name. *Lapeyre, Farrowith & Co. v. Gales*, 14 F.Cas. 1133, 1822 U.S. App. LEXIS 420 (1822).

Presumptions and burden of proof.

The interest of a partner in the joint stock of firm and his consequent authority to use firm's name raises a presumption that contract made in firm name was made for the joint account, which is sufficient to bind the firm, unless the contrary is shown and that the person with whom the partners dealt had notice or reason

to believe that the partner was acting on his separate account. *Le Roy, Bayard & Co. v. Johnson*, 27 U.S. 186, 1829 U.S. LEXIS 398 (U.S.Dist.Col. 1829).

The presumption is that contracts made by a partner are made on account of the partnership, and the firm will be bound thereby, unless the parties with whom he contracts knows the contrary. *Le Roy, Bayard & Co. v. Johnson*, 27 U.S. 186, 1829 U.S. LEXIS 398 (U.S.Dist.Col. 1829).

Individual partner's power to bind other partners by commercial papers in firm name can arise only from other partners' consent or from necessity or usage, burden of proving which is on holder of such paper. *Presbrey v. Thomas*, 1 App.D.C. 171, 1893 U.S. App. LEXIS 3021 (1893).

In an action for goods sold by a firm, plaintiffs must prove themselves to be the firm. *Tibbs v. Parrott*, 23 F.Cas. 1197, 1806 U.S. App. LEXIS 636 (1806).

Where a member of a firm draws a check in his own name, the party seeking to recover upon such check against the firm has the burden of proving that the drawer of the check had authority to bind the firm by acts in his own name. *Patriotic Bank v. Coote*, 18 F.Cas. 1303, 1827 U.S. App. LEXIS 398 (1827).

When a partner has engaged in self-dealing, that partner has the burden to prove the fairness of his actions. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Process and appearance.

Nonresident members of partnership sued individually were not bound by subpoena issued to alleged manager of partnership within District of Columbia. *Matson v. Mackubin*, 57 F.2d 941, 1932 U.S. App. LEXIS 4088 (1932).

Statute relating to service on agent of foreign corporation doing business in District of Columbia held inapplicable to partnerships. D.C. Code 1929, T. 24, § 373. *Matson v. Mackubin*, 57 F.2d 941, 1932 U.S. App. LEXIS 4088 (1932).

Nonresident members of partnership sued individually were not bound by subpoena issued to attorneys specially appearing for purpose of motion to quash prior service. *Matson v. Mackubin*, 57 F.2d 941, 1932 U.S. App. LEXIS 4088 (1932).

Questions of law and fact.

Evidence, in action by plaintiff for recovery of amount allegedly due as a partner of defendants for certain years, presented jury questions as to existence and scope of partnership. *Newrath v. Schwartz*, 292 F.2d 763, 1961 U.S. App. LEXIS 4408 (C.A.D.C. 1961).

Issues of existence and scope of partnership were proper for determination by jury, even though litigation involved certain partnership

problems. *Newrath v. Schwartz*, 292 F.2d 763, 1961 U.S. App. LEXIS 4408 (C.A.D.C. 1961).

The question whether, and under what circumstances, the making and indorsing of a note by a partner binds his firm, is a question of law for the court. *Thomas v. Presbrey*, 5 App.D.C. 217, 1895 U.S. App. LEXIS 3543 (1895).

Weight and sufficiency of evidence.

In action by creditor against former partner for a deficiency on an indebtedness incurred by partnership prior to the former partner's retirement, evidence was sufficient to support finding that former partner had relinquished control of the partnership assets and any right which he might have had in directing the affairs of the firm in reliance upon the creditor's express release. *Barlow v. Cornwell*, 125 A.2d 63, 1956 D.C. App. LEXIS 223 (Cr.App. 1956).

Evidence sustained finding that plaintiff

partner's interest in partnership was converted by transfer of partnership business and assets to wholly owned subsidiary of defendant corporation which was formed to defraud plaintiff by defendant corporation and defendant partner. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

Where evidence sustained finding that plaintiff's interest in partnership was converted by transfer of partnership business and assets to wholly owned subsidiary of defendant corporation by defendant partner without plaintiff's consent or knowledge, recovery on counterclaim of defendant corporation based on excess of disbursements by defendant corporation over receipts by it on behalf of partnership after the conversion, was properly denied. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

§ 29-603.08. Liability of purported partner.

(a) If a person, by words or conduct, purports to be a partner, or consents to being represented by another as a partner, in a partnership or with one or more persons not partners, the purported partner shall be liable to a person to whom the representation is made, if that person, relying on the representation, enters into a transaction with the actual or purported partnership. If the representation, either by the purported partner or by a person with the purported partner's consent, is made in a public manner, the purported partner shall be liable to a person that relies upon the purported partnership even if the purported partner is not aware of being held out as a partner to the claimant. If partnership liability results, the purported partner shall be liable with respect to that liability as if the purported partner were a partner. If no partnership liability results, the purported partner shall be liable with respect to that liability jointly and severally with any other person consenting to the representation.

(b) If a person is thus represented to be a partner in an existing partnership, or with one or more persons not partners, the purported partner shall be an agent of persons consenting to the representation to bind them to the same extent and in the same manner as if the purported partner were a partner, with respect to persons that enter into transactions in reliance upon the representation. If all of the partners of the existing partnership consent to the representation, a partnership act or obligation shall result. If fewer than all of the partners of the existing partnership consent to the representation, the person acting and the partners consenting to the representation shall be jointly and severally liable.

(c) A person shall not be liable as a partner merely because the person is named by another in a statement of partnership authority.

(d) A person shall not continue to be liable as a partner merely because of a failure to file a statement of dissociation or to amend a statement of partnership authority to indicate the partner's dissociation from the partnership.

(e) Except as otherwise provided in subsections (a) and (b) of this section,

persons that are not partners as to each other shall not be liable as partners to other persons.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-603.07.

Prior Codifications. — 2001 Ed., § 33-103.08.

1981 Ed., § 41-153.8.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 308 of the Uniform Partnership Act (1997 Act).

Subchapter IV. Relations of Partners to Each Other and to Partnership.

§ 29-604.01. Partner's rights and duties.

(a) Each partner shall be deemed to have an account that is:

(1) Credited with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, the partner contributes to the partnership and the partner's share of the partnership profits; and

(2) Charged with an amount equal to the money plus the value of any other property, net of the amount of any liabilities, distributed by the partnership to the partner and the partner's share of the partnership losses.

(b) Each partner shall be entitled to an equal share of the partnership profits and shall be chargeable with a share of the partnership losses in proportion to the partner's share of the profits.

(c) A partnership shall reimburse a partner for payments made, and indemnify a partner for liabilities incurred, by the partner in the ordinary course of the business of the partnership or for the preservation of its business or property.

(d) A partnership shall reimburse a partner for an advance to the partnership beyond the amount of capital the partner agreed to contribute.

(e) A payment or advance made by a partner which gives rise to a partnership obligation under subsection (c) or (d) of this section shall constitute a loan to the partnership which accrues interest from the date of the payment or advance.

(f) A partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of this section, § 29-604.07, or § 29-610.02.

(g) In the ordinary course of its business, a partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a partner, if the person promises to repay the partnership if the person ultimately is determined not to be entitled to be indemnified under subsection (f) of this section.

(h) A partnership may purchase or maintain insurance against liability arising from a partner's status and asserted against or incurred by a partner acting in his or her capacity. Such insurance may be purchased and maintained even if, under § 29-601.04(b)(13), the partnership agreement does not permit limitation or elimination of partner liability.

(i) Each partner shall have equal rights in the management and conduct of the partnership business.

(j) A partner shall use or possess partnership property only on behalf of the partnership.

(k) A partner shall not be entitled to remuneration for services performed for the partnership, except for reasonable compensation for services rendered in winding up the business of the partnership.

(l) A difference arising as to a matter in the ordinary course of business of a partnership shall be decided by a majority of the partners. An act outside the ordinary course of business of a partnership and an amendment to the partnership agreement shall be undertaken only with the consent of all of the partners.

(m) This section shall not affect the debts, liabilities, or other obligations of a partnership to other persons under § 29-603.01.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-609.03.

Prior Codifications. — 1981 Ed., § 41-154.1.

2001 Ed., § 33-104.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (f), (g), and (h); repealed former (i) and (j); and redesignated former (f) through (h) as (i) through (k), respectively; and redesignated former (k) and (l) as (l) and (m), respectively.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 401 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Fees and profits.

In general.

Interest.

Nature of obligation between partners.

Partnership agreements.

Partnership property, generally.

Fees and profits.

Evidence did not establish that partners in former two-partner law partnership agreed to unequal division of profits, and thus, partner who generated more client fees in one year was not entitled to keep excess fees while dividing expenses equally, but instead was required to share profits equally pursuant to District of Columbia version of Uniform Partnership Act; the only signed writings regarding division of

profits were federal tax returns indicating profits were shared equally, and partners reimbursed each other for travel costs for attempts to attract new clients. D.C. Code 1981, § 41-154.1. *Medalie v. Ferry*, 30 F.Supp.2d 48, 1998 U.S. Dist. LEXIS 21683 (1998).

In general.

There are, with respect to every partnership, three separate interests held by each respective partner: rights in specific partnership property; interest in the partnership; and rights to participate in the management of the partnership. D.C. Code 1973, § 41-323. *In re Walsh*, 14 B.R. 385, 1981 Bankr. LEXIS 2914 (1981).

Interest.

Interest should be allowed a surviving partner on advances made to his partner during the

latter's lifetime. *Consaul v. Cummings*, 24 App.D.C. 36, 1904 U.S. App. LEXIS 5295 (1904).

When partners contribute to the capital in unequal proportions, interest does not run in favor of either on his share, unless there is something in the partnership articles taking the case out of the ordinary rule. *Osborn v. Gheen*, 16 D.C. 189 (D.C.Supp. 1886).

Nature of obligation between partners.

Intent of parties governs liabilities between partners. *Ross v. 1301 Conn. Ave. Assocs.*, 99 F.3d 444, 1996 U.S. App. LEXIS 29120 (C.A.D.C.1996).

Partners as to partnership matters are fiduciaries inter se. D.C. Code § 41-317; S.H.A.Ill. ch. 106 ½, § 1 et seq. *Day v. Avery*, 548 F.2d 1018, 1976 U.S. App. LEXIS 6316 (C.A.D.C. 1976), writ of certiorari denied by 431 U.S. 908, 97 S. Ct. 1706, 52 L. Ed. 2d 394, 1977 U.S. LEXIS 1736 (1977).

Legal relationships among partners are governed above all by intentions of partners. D.C. Code 1981, § 41-117. *Singer v. Scher*, 761 F. Supp. 145, 1991 U.S. Dist. LEXIS 2061 (1991).

Generally, common-law rule and statutory standards concerning relationships between partners can be overridden by agreement reached by the parties themselves. D.C. Code § 41-317; S.H.A.Ill. ch. 106 ½, § 18. *Day v. Sidley & Austin*, 394 F. Supp. 986, 1975 U.S. Dist. LEXIS 12145 (1975), affirmed by 548 F.2d 1018, 179 U.S. App. D.C. 63, 1976 U.S. App. LEXIS 6316 (1976).

Partners have duty to make full and fair disclosure to other partners of all information which may be of value to partnership. *Day v. Sidley & Austin*, 394 F. Supp. 986, 1975 U.S. Dist. LEXIS 12145 (1975), affirmed by 548 F.2d 1018, 179 U.S. App. D.C. 63, 1976 U.S. App. LEXIS 6316 (1976).

A partner cannot avail himself of knowledge or information which may properly be regarded as property of the partnership in the sense that it is available or useful to firm for any purposes within scope of partnership business. *Holmes v. Keets*, 58 F.Supp. 660, 1945 U.S. Dist. LEXIS 2590 (D.D.C.1945).

Partners are accountable to one another as fiduciaries, which means, fundamentally, that they owe one another the utmost good faith, fairness, and loyalty. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

The fiduciary nature of the partnership relation requires at all times the highest degree of good faith, and precludes any secret profit, benefit, or advantage of any kind. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Good faith will not permit any one partner to advantage himself singly and alone, at the

expense of the firm. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Pursuit of malicious and ill-founded litigation by one partner calculated to coerce another to abandon his legal rights, or to punish him for asserting them, violates extraordinary duty of good faith and fair dealing that partners owe one another in partnership affairs. *Washington Medical Center, Inc. v. Holle*, 573 A.2d 1269, 1990 D.C. App. LEXIS 99 (1990).

Partners owe to each other duty of utmost good faith in all that pertains to their relationship. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

Good faith between partners requires that before attempting disposition of entire business by one partner, the other, when accessible, should be consulted and given opportunity to protect himself by forbidding or objecting to its consummation. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

Partnership agreements.

If there is ambiguity in partnership agreement or a disagreement between the contracting parties as to meaning or scope of one of the contractual provisions, court will look to intent of parties, as shown by face of document and in light of facts attendant on the making of the contract. *Holmes v. Keets*, 153 F.2d 132, 1946 U.S. App. LEXIS 1891 (1946).

Meeting between managing partner and general partners of real estate partnerships failed to change the terms of managing partners management agreement; the meeting could not affect the modification of original agreements, where all five written partnership agreements required any modifications to them be in writing, and meeting produced no writing; meeting could only be illustrative of partners understandings of the original agreements. *United States v. Miller*, 901 F. Supp. 371, 1995 U.S. Dist. LEXIS 14674 (1995), affirmed without opinion by 99 F.3d 448, 321 U.S. App. D.C. 309, 1996 U.S. App. LEXIS 41852 (1996).

Where partnership agreement provided that all prior partnership agreements and any amendments or supplements thereto were superseded and revoked and agreements set forth would constitute sole and only partnership agreement between partners, agreement was presumed, under District of Columbia law, to be complete contract between parties. *Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

Partnership property, generally.

Where land is bought on joint account for partnership purposes, and the title vested in one of the partners, he holds it subject to a trust in favor of his copartner. *Stone v. Fowlkes*, 29

App.D.C. 379, 1907 U.S. App. LEXIS 5462 (1907).

District of Columbia law does not establish that all property of general partner who has breached his fiduciary duties will be considered partnership property until debt to partnership has been satisfied. *TMG II v. United States*, 778 F. Supp. 37, 1991 U.S. Dist. LEXIS 13911 (1991), affirmed by, remanded by 1 F.3d 36, 303 U.S. App. D.C. 77, 1993 U.S. App. LEXIS 20531, 72 A.F.T.R.2d (RIA) 5805, 93 TNT 186-15, 93-2 U.S. Tax Cas. (CCH) P50503 (1993).

Transfer of partnership property by one partner for his own personal benefit is void as affecting right of other partners in property. *Federal Kemper Life Assurance Co. v.*

Wolensky's L.P. (In re Wolensky's Ltd. Partnership), 163 B.R. 615, 1993 Bankr. LEXIS 2053 (1993).

Partnership holds and conveys property separately and distinctly from the individual who holds an interest in the partnership. *Cowan v. District of Columbia Dep't of Finance & Revenue*, 454 A.2d 814, 1983 D.C. App. LEXIS 290 (1983).

Under common law, whatever portion of partnership realty was not required for partnership purposes could be disposed of at death, by persons in whose names it was held, like any other real property they owned. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

§ 29-604.02. Becoming partner.

(a) Upon formation of a partnership under § 29-602.02(a), a person becomes a partner.

(b) After formation of a partnership, a person becomes a partner:

(1) As provided in the partnership agreement;

(2) As a result of a transaction effective under Subchapter [subchapter] IX of this chapter or Chapter 2 of this title; or

(3) With the consent of all the partners.

(c) A person may become a partner without:

(1) Acquiring a transferable interest; or

(2) Making or being obligated to make a contribution to the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.02.

Prior Codifications. — 1981 Ed., § 41-154.2.

2001 Ed., § 33-104.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section, which formerly read: "Distributions in kind. A partner shall have no right to receive, and shall not be required to accept, a distribution in kind."

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 402 of the Uniform Partnership Act (1997 Act). See Vol. 6, Part I, Uniform Laws Annotated, Master Edition.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-604.03. Form of contribution.

A contribution may consist of property transferred, services performed, or other benefit provided to the partnership or an agreement to transfer property, perform services, or provide another benefit.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.02 and § 29-601.04.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Section 2(f)(4)(C) of D.C. Law 19-210 redesignated former § 20-604.03 as § 29-604.06.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-604.04. Liability for contributions.

(a) A person's obligation to make a contribution to a partnership is not excused by the person's death, disability, or other inability to perform personally.

(b) If a person does not fulfill an obligation to make a contribution other than money, the person is obligated at the option of the partnership to contribute money equal to the value of the part of the contribution which has not been made.

(c) The obligation of a person to make a contribution may be compromised only by consent of all partners. If a creditor of a limited liability partnership extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section, without notice of a compromise under this subsection, the creditor may enforce the obligation.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04, § 29-605.03, § 29-606.01, and § 29-606.03.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Section 2(f)(4)(C) of D.C.

Law 19-210 redesignated former § 20-604.04 as § 29-604.07.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-604.05. Distributions in kind; sharing of and right to distribution before dissolution.

(a) Any distributions made by a partnership before its dissolution and winding up must be in equal shares among partners, except to the extent necessary to comply with a transfer effective under § 29-605.03 or charging order in effect under § 29-605.04.

(b) A person has a right to a distribution before the dissolution and winding up of a partnership only if the partnership decides to make an interim distribution.

(c) A person does not have a right to demand or receive a distribution from a partnership in any form other than money. Except as otherwise provided in § 29-608.09, a partnership may distribute an asset in kind only if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the partnership with respect to the distribution. However, the partnership's obligation to make a distribution is subject to offset for any amount owed to the partnership by the partner or a person dissociated as partner on whose account the distribution is made.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-607.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Section 2(f)(4)(C) of D.C.

Law 19-210 redesignated former § 20-604.05 as § 29-604.08.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-604.06. Partner's rights and duties beyond definite term or particular undertaking.

(a) A partnership shall keep its books and records, if any, at its principal office.

(b) A partnership shall provide partners and their agents and attorneys access to its books and records. It shall provide former partners and their agents and attorneys access to books and records pertaining to the period during which they were partners. The right of access provides the opportunity to inspect and copy books and records during ordinary business hours. A partnership may impose a reasonable charge, covering the costs of labor and material, for copies of documents furnished.

(c) Each partner and the partnership shall furnish to a partner, and to the legal representative of a deceased partner or partner under legal disability:

(1) Without demand, any information concerning the partnership's business [activities] and affairs reasonably required for the proper exercise of the partner's rights and duties under the partnership agreement or this chapter; and

(2) On demand, any other information concerning the partnership's business [activities] and affairs, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, §§ 2(f)(4)(C), 2(f)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-605.05.

Prior Codifications. — 1981 Ed., § 41-154.3.

2001 Ed., § 33-104.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 20-604.03 as § 29-604.06; and apparently intended to substitute "activities" for "business" twice in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 403 of the Uniform Partnership Act (1997 Act).

Section 2(f)(4)(C) of D.C. Law 19-210 redesignated former § 20-604.06 as § 29-604.09.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-604.07. General standards of partner's conduct.

(a) The only fiduciary duties a partner owes to the partnership and the other partners are the duty of loyalty and the duty of care set forth in subsections (b) and (c) of this section.

(b) A partner's duty of loyalty to the partnership and the other partners include the following:

(1) To account to the partnership and hold as trustee for it any property, profit, or benefit derived by the partner in the conduct and winding up of the partnership business or derived from a use by the partner of partnership property, including the appropriation of a partnership opportunity;

(2) To refrain from dealing with the partnership in the conduct or winding up of the partnership business as or on behalf of a party having an interest adverse to the partnership; and

(3) To refrain from competing with the partnership in the conduct of the partnership business before the dissolution of the partnership.

(c) A partner's duty of care to the partnership and the other partners in the conduct and winding up of the partnership business shall be limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the partner's conduct furthers the partner's own interest.

(f) A partner may lend money to and do other business with the partnership, and, as to each loan or transaction, the rights and obligations of the partner shall be the same as those of a person that is not a partner, subject to other applicable law.

(g) This section shall apply to a person winding up the partnership business as the personal or legal representative of the last surviving partner as if the person were a partner.

(h) All the partners may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(i) It is a defense to a claim under subsection (b)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the partnership.

(j) If, as permitted by subsection (f) of this section or the partnership agreement, a partner enters into a transaction with the partnership which otherwise would be prohibited by subsection (b)(2) of this section, the partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, §§ 2(f)(4)(C), 2(f)(4)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04, § 29-604.01, and § 29-610.03.

Prior Codifications. — 1981 Ed., § 41-154.4.

1981 Ed., § 33-104.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 20-604.04 as § 29-604.07; substituted

"include" for "shall be limited to" in (b); substituted "does" for "shall" in (e); and added (h), (i), and (j).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 404 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C.

Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Aiding and abetting.

Attorneys fees.

Business in scope of partnership.

Conflicts of interest.

Fiduciary duty, generally.

In general.

Share of profits.

Use of partnership assets.

Aiding and abetting.

Outsider to partnership aided and abetted breach of fiduciary duty owed by one partner to partnership by entering into scheme with that partner to buy mortgage note at discount and then realize profit when note was paid off by partnership as part of closing at which partnership acquired property subject to note. *Ehlen v. Lewis*, 984 F. Supp. 5, 1997 U.S. Dist. LEXIS 17252 (1997).

Outsider to partnership was liable for fraud in connection with sale of real property to partnership; outsider conspired with partner to secretly acquire at discount mortgage note covering property and realize profit when note was paid off at closing on sale of property, and outsider attempted to cover up fraud when closing did not occur as planned. *Ehlen v. Lewis*, 984 F. Supp. 5, 1997 U.S. Dist. LEXIS 17252 (1997).

Attorneys fees.

Where an attorney at law refuses to act as a partner, or to perform the functions of such in the prosecution of a cause which has been intrusted to his firm, and repudiates his obligations, he is not entitled to any part of the fees subsequently earned by his partners in the cause. *Denver v. Roane*, 99 U.S. 355, 1878 U.S. LEXIS 1548 (U.S. Dist. Col. 1878).

Business in scope of partnership.

The violation by a partner in a real estate firm of a stipulation that no member shall engage in buying and selling real estate on his own account, does not give to the other partners a right to share in the profits thus made. *Latta v. Kilbourn*, 14 S.Ct. 201, 1893 U.S. LEXIS 2403 (U.S. Dist. Col. 1893).

Profits made by a member of a firm through individual transactions outside the scope of the firm business do not belong to the firm, although he employs therein the skill and information acquired as a member of the firm. *Latta v. Kilbourn*, 14 S.Ct. 201, 1893 U.S. LEXIS 2403 (U.S. Dist. Col. 1893).

A partner cannot surreptitiously or flagrantly compete on his own behalf with the partnership business, and pocket the profits of the competition to exclusion of his ignorant or helpless partner. *Holmes v. Keets*, 153 F.2d 132, 1946 U.S. App. LEXIS 1891 (1946).

In examining good faith of partner in conducting a business in competition with partnership business, the partnership agreement must be considered. *Holmes v. Keets*, 153 F.2d 132, 1946 U.S. App. LEXIS 1891 (1946).

One partner cannot without the consent of his co-partner carry on for his own exclusive use any business within the scope of the partnership. *Milton v. Kingsley*, 7 App.D.C. 531, 1896 U.S. App. LEXIS 3091 (1896).

One partner cannot take any business to himself, for his own exclusive benefit, that is within the general scope of the business of the partnership. *Milton v. Kingsley*, 7 App.D.C. 531, 1896 U.S. App. LEXIS 3091 (1896).

A partner cannot, generally, be permitted to secure for himself that which it is his duty to obtain, if at all, for the firm of which he is a member. *Holmes v. Keets*, 58 F.Supp. 660, 1945 U.S. Dist. LEXIS 2590 (D.D.C.1945).

A partner cannot, in conducting business of a partnership, take any profits clandestinely for himself, and he cannot carry on the business as a partnership for his private advantage. *Holmes v. Keets*, 58 F.Supp. 660, 1945 U.S. Dist. LEXIS 2590 (D.D.C.1945).

Generally, a partner cannot carry on another business in competition with that of the firm, without being accountable to his copartners for any profit that may accrue to him therefrom. *Holmes v. Keets*, 58 F.Supp. 660, 1945 U.S. Dist. LEXIS 2590 (D.D.C.1945).

If one partner stipulates clandestinely with third parties for profits or advantages to himself, his copartner is entitled to share therein. *Kilbourn v. Latta*, 16 D.C. 304 (D.C. Sup. 1886).

Conflicts of interest.

A partner will not be allowed to deal on his own account in any matter of business which is obviously at variance with or adverse to the business or interests of the partnership. *Kilbourn v. Latta*, 16 D.C. 304 (D.C. Sup. 1886).

Fiduciary duty, generally.

Under District of Columbia law, no claim lay for breach of fiduciary duties allegedly owed by restaurant chain to its meat supplier from their relationship where they were two business partners dealing with each other at arm's length. *Goldstein v. S & A Restaurant Corp.*,

622 F. Supp. 139, 1985 U.S. Dist. LEXIS 14328 (1985).

Essence of breach of fiduciary duty between partners is that one partner has advantaged himself at the expense of the firm. *Day v. Sidley & Austin*, 394 F. Supp. 986, 1975 U.S. Dist. LEXIS 12145 (1975), affirmed by 548 F.2d 1018, 179 U.S. App. D.C. 63, 1976 U.S. App. LEXIS 6316 (1976).

Basic fiduciary duties between partners are: a partner must account for any profit acquired in manner injurious to interests of partnership, partner cannot without the consent of other partners acquire for himself a partnership asset nor may he divert to his own use a partnership opportunity, and he must not compete with partnership within scope of business. *Day v. Sidley & Austin*, 394 F. Supp. 986, 1975 U.S. Dist. LEXIS 12145 (1975), affirmed by 548 F.2d 1018, 179 U.S. App. D.C. 63, 1976 U.S. App. LEXIS 6316 (1976).

Partners are accountable to one another as fiduciaries, which means, fundamentally, that they owe one another the utmost good faith, fairness, and loyalty. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

The fiduciary nature of the partnership relation requires at all times the highest degree of good faith, and precludes any secret profit, benefit, or advantage of any kind. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Good faith will not permit any one partner to advantage himself singly and alone, at the expense of the firm. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

In general.

As between themselves, partners may make any agreement they wish which is not barred by prohibitory provisions of statutes, by common law, or by considerations of public policy. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

There are, with respect to every partnership, three separate interests held by each respective partner: rights in specific partnership property; interest in the partnership; and rights to participate in the management of the partnership. D.C. Code 1973, § 41-323. *In re Walsh*, 14 B.R. 385, 1981 Bankr. LEXIS 2914 (1981).

Share of profits.

One partner will not be entitled to an equal share of the profits of a contract made by his copartner individually if he has precluded himself by his own act from participating in the duties of the partnership. *Grafton v. Paine*, 7 App.D.C. 255, 1895 U.S. App. LEXIS 3633 (1895).

Use of partnership assets.

Generally, one partner cannot directly or indirectly use partnership assets for his own benefit. *Holmes v. Keets*, 58 F.Supp. 660, 1945 U.S. Dist. LEXIS 2590 (D.D.C.1945).

§ 29-604.08. Actions by partnership and partners.

(a) A partnership shall be liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a partner acting in the ordinary course of business of the partnership or with authority of the partnership.

(b) If, in the course of the partnership's business or while acting with authority of the partnership, a partner receives or causes the partnership to receive money or property of a person not a partner, and the money or property is misapplied by a partner, the partnership shall be liable for the loss.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(C), 59 DCR 13171.)

Prior Codifications. — 1981 Ed., § 41-154.5.

2001 Ed., § 33-104.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 20-604.05 as § 29-604.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 405 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Admissibility of evidence.

Choice of law.

Damages.

Grounds of action.

Weight and sufficiency of evidence.

Admissibility of evidence.

In partner's action on note executed by co-partner and another for purchase money of goods of partnership sold by partner, note was admissible in evidence. *Van Ness v. Forrest*, 8 Cranch 30, 12 U.S. 30, 3 L.Ed. 478, 1814 U.S. LEXIS 378 (U.S. Dist. Col. 1814).

Choice of law.

Where partnership was formed in Virginia, Virginia law was applicable in action in the District Court of Columbia by first partner, who had paid full amount due on partnership note, against second partner for contribution. *Wright v. Armwood*, 107 A.2d 702, 1954 D.C. App. LEXIS 173 (Cr.App. 1954).

Damages.

Partner of partnership acquiring real property, and outsider who participated in fraudulent scheme with partner, would be required to disgorge to the other partners difference between amounts secretly paid to acquire mortgage note on property at discount and amount paid to satisfy note at closing of sale, together with all attorney fees. *Ehlen v. Lewis*, 984 F. Supp. 5, 1997 U.S. Dist. LEXIS 17252 (1997).

In suit respecting distribution of amount awarded by Congress to partnership for performance of services on behalf of government during war, evidence disclosed that passage of bill was achieved practically through sole efforts of one partner who spent considerable time and ingenuity which entitled him to be compensated over and above his partnership interests for \$100,000. *Luff v. Luff*, 158 F.Supp. 311, 1958 U.S. Dist. LEXIS 2741 (D.D.C. 1958).

The measure of recovery by plaintiff partner for wrongful conversion of his interest in partnership by defendant partner's transfer of partnership business and assets to subsidiary of defendant corporation without plaintiff's consent is reasonable value of property converted, plus interest and any special damages plaintiff might prove. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

In determining compensatory damages recoverable by partner for conversion of his interest in partnership by transfer of business by his partner to newly organized subsidiary corporation of defendant corporation, court would have to evaluate plaintiff partner's interest in partnership at time of conversion, and in doing so court should consider partnership interest in

any accounts receivable due partnership at the time, value of partnership bank account, good will, and value of any other property or interest converted. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

In partner's action for conversion against co-partner and defendant corporation for transferring partnership business and assets to wholly owned subsidiary of defendant corporation, assessment of compensatory damages on basis of plaintiff's advances of capital to partnership and his payment of amount due bank by partnership was error. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

Where large portion of plaintiff partner's interest in partnership, which was converted by defendant partner's transfer of partnership business and assets to defendant corporation's wholly owned subsidiary, consisted in commissions on accounts receivable so transferred, trial court erred in placing no value on plaintiff's interest in such commissions in determining amount of compensatory damages for the conversion. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

Where partner in charge of partnership's motor transportation business failed in his duty toward plaintiff partner, who had furnished entire capital for business, by transferring partnership business and assets to subsidiary of defendant corporation organized solely to take over such business, defendant corporation stood in no better position than defendant partner, and if plaintiff could prove no other damages he would, at least, be entitled to nominal damages for the wrongful conversion of his interest in partnership. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

Grounds of action.

One partner may recover from another the amount of a note by the latter for money advanced by the former to be used in the partnership business, where the action does not involve an examination of the partnership accounts. *Van Ness v. Forrest*, 8 Cranch 30, 12 U.S. 30, 3 L.Ed. 478, 1814 U.S. LEXIS 378 (U.S. Dist. Col. 1814).

The principles that a company cannot sue its members and that a partner cannot sue a partner on a partnership transaction do not apply to a case where a note in writing is given for money not to a firm but to an individual member thereof. *Van Ness v. Forrest*, 8 Cranch 30, 12 U.S. 30, 3 L.Ed. 478, 1814 U.S. LEXIS 378 (U.S. Dist. Col. 1814).

One partner in a steamboat company, who acted as master and engineer, cannot maintain an action at law against his copartners, for

compensation as engineer. *Taylor v. Smith*, 23 F.Cas. 806, 1827 U.S. App. LEXIS 440 (1827).

If one of three joint defendants pay the whole debt on a joint execution for a debt contracted by them jointly, in a transaction in which they were partners, he cannot, at law, recover from the other partners their respective proportions of the whole debt which he has thus paid. *Riggs v. Stewart*, 20 F.Cas. 788, 1819 U.S. App. LEXIS 209 (1819).

An action at law cannot be maintained by one partner against his copartner, to recover moneys alleged to be due him on account of partnership transactions, where no settlement of the accounts and business has been had. *Pote, to Use of Brent v. Philips*, 19 F.Cas. 1129, 1837 U.S. App. LEXIS 313 (1837).

Although partnership accounts may have been settled, and a balance acknowledged to be due by one partner to another, the creditor partner cannot maintain an action at law for that balance without proving an express promise, by the debtor partner, to pay it. *Pote, to Use of Brent v. Philips*, 19 F.Cas. 1129, 1837 U.S. App. LEXIS 313 (1837).

If there has been no settlement of the partnership accounts, one partner cannot maintain an action at law against the other, for any matter relating to their partnership affairs. *Pote, to Use of Brent v. Philips*, 19 F.Cas. 1129, 1837 U.S. App. LEXIS 313 (1837).

An action at law cannot be maintained by one partner against his copartner, to recover moneys alleged to be due him on account of partnership transactions, where no settlement of the accounts and business has been had. *Goldsborough v. McWilliams*, 10 F.Cas. 558, 1823 U.S. App. LEXIS 334 (1823).

Resort to equity may not be necessary when breach of partnership agreement, wrongful dissolution, fraudulent breach of trust, or misappropriation of money clearly belonging to another partner is charged. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

As general rule, accounting in equity or its equivalent is prerequisite to partner's action at law against copartner. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Actions by law may not generally be brought by one partner against another partner after dissolution of partnership until partnership accounts have been settled, but the rule is subject to exceptions. *Wright v. Armwood*, 107 A.2d 702, 1954 D.C. App. LEXIS 173 (Cr.App. 1954).

Partners are not forbidden to sue each other at law merely because they are or have been partners, and it is only when adjustment of a matter in controversy involves an investigation and audit of the partnership accounts, that resort must be had to equity for an accounting. *Boyle v. Smith*, 64 A.2d 428, 1949 D.C. App. LEXIS 158 (Cr.App. 1949).

Where there has been a single completed partnership transaction or where only one or a few items are involved and no accounting is necessary to fix amount payable, resort to equity by way of an action for accounting is unnecessary and plaintiff may sue at law for a share of the partnership assets especially when wrongdoing by defendant is charged. *Boyle v. Smith*, 64 A.2d 428, 1949 D.C. App. LEXIS 158 (Cr.App. 1949).

Where a brother charged that his sister had wrongfully converted partnership funds, action in law therefor could be maintained without necessity of an accounting in equity, especially where evidence for the brother established charge that sister's acts amounted to a fraudulent breach of duty. *Boyle v. Smith*, 64 A.2d 428, 1949 D.C. App. LEXIS 158 (Cr.App. 1949).

Weight and sufficiency of evidence.

Record failed to establish inadequacy of consideration in connection with transfer by decedent of his interest in food brokerage corporation to his partner in restaurant business. *Nunnally v. Wilder*, 330 F.2d 843, 1964 U.S. App. LEXIS 6141 (C.A.D.C. 1964).

Evidence sustained finding that plaintiff partner's interest in partnership was converted by transfer of partnership business and assets to wholly owned subsidiary of defendant corporation which was formed to defraud plaintiff by defendant corporation and defendant partner. *Riss & Co. v. Feldman*, 79 A.2d 566, 1951 D.C. App. LEXIS 146 (Cr.App. 1951).

§ 29-604.09. Continuation of partnership beyond definite term or particular undertaking.

(a) Except as otherwise provided in subsections (b) and (c) of this section, all partners shall be liable jointly and severally for all obligations of the partnership unless otherwise agreed by the claimant or provided by law.

(b) A person admitted as a partner into an existing partnership shall not be personally liable for any partnership obligation incurred before the person's admission as a partner.

(c) An obligation of a partnership incurred while the partnership is a limited

liability partnership, whether arising in contract, tort, or otherwise, shall be solely the obligation of the partnership. A partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for such an obligation solely by reason of being or so acting as a partner. This subsection shall apply notwithstanding anything inconsistent in the partnership agreement that existed immediately before the vote required to become a limited liability partnership under § 29-610.01(b).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(4)(C), 59 DCR 13171.)

Prior Codifications. — 1981 Ed., § 41-154.6.

2001 Ed., § 33-104.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 20-604.06 as § 29-604.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 406 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter V. Transferees and Creditors of Partner.

§ 29-605.01. Partner not co-owner of partnership property.

A partner shall not be a co-owner of partnership property and has no interest in partnership property which can be transferred, either voluntarily or involuntarily.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 41-155.1.

2001 Ed., § 33-105.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 501 of the Uniform Partnership Act (1997 Act).

CASE NOTES

In general.

There are, with respect to every partnership, three separate interests held by each respective partner: rights in specific partnership property;

interest in the partnership; and rights to participate in the management of the partnership. D.C. Code 1973, § 41-323. In re Walsh, 14 B.R. 385, 1981 Bankr. LEXIS 2914 (1981).

§ 29-605.02. Partner's transferable interest in partnership.

Except as otherwise provided in subchapter IX of this chapter or Chapter 2 of this title, the only transferable interest of a partner in the partnership is the partner's share of the profits and losses of the partnership and the partner's right to receive distributions. The interest of a partner, whether or not transferable, shall be personal property.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(5)(A), 59 DCR 13171.)

Prior Codifications. — 1981 Ed., § 41-155.2.

2001 Ed., § 33-105.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “is” for the first occurrence of “shall be.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 502 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Partnership agreements.

In view of provisions of partnership as a whole, provisions prohibiting “assignment” or “disposition” of interests in partnership were intended to apply to mere transfer of interest. *Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

Where both parties involved in dispute were extremely experienced business entities and where partnership agreement did provide for certain exceptions to prohibitions against

transfer of interest and would presumably have provided for any other exceptions intended, and in view of District of Columbia Code provision that no person can become member of partnership without consent of all partners, merger which effectively forced plaintiff to accept new partner without his consent amounted to breach of agreement, and same was true though merger took place by operation of law. *D.C. Code 1973, § 41-317(g). Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

§ 29-605.03. Transfer of partner’s transferable interest.

(a) A transfer, in whole or in part, of a partner’s transferable interest in the partnership:

(1) Is permissible;

(2) Shall not by itself cause the partner’s dissociation or a dissolution and winding up of the partnership business; and

(3) Shall not, as against the other partners or the partnership, entitle the transferee, during the continuance of the partnership, to participate in the management or conduct of the partnership business, to require access to information concerning partnership transactions, or to inspect or copy the partnership books or records.

(b) A transferee of a partner’s transferable interest in the partnership shall have a right to:

(1) Receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled;

(2) Receive upon the dissolution and winding up of the partnership business, in accordance with the transfer, the net amount otherwise distributable to the transferor; and

(3) Seek under § 29-608.01(6) a judicial determination that it is equitable to wind up the partnership business.

(c) In a dissolution and winding up, a transferee shall be entitled to an account of partnership transactions only from the date of the latest account agreed to by all of the partners.

(d) Upon transfer, the transferor shall retain the rights and duties of a partner other than the interest in distributions transferred.

(e) A partnership need not give effect to a transferee's rights under this section until it has notice of the transfer.

(f) A transfer of a partner's transferable interest in the partnership in violation of a restriction on transfer contained in the partnership agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

(g) If a partner transfers a transferable interest to a person that becomes a partner with respect to the transferred interest, the transferee is liable for the partner's obligations under §§ 29-604.04 and 29-610.03 known to the transferee when the transferee becomes a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(5)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-604.05 and § 29-605.05.

Prior Codifications. — 1981 Ed., § 41-155.3.

2001 Ed., § 33-105.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (g).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 503 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Partnership agreements.

In view of provisions of partnership as a whole, provisions prohibiting "assignment" or "disposition" of interests in partnership were intended to apply to mere transfer of interest. *Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

Where both parties involved in dispute were extremely experienced business entities and where partnership agreement did provide for certain exceptions to prohibitions against

transfer of interest and would presumably have provided for any other exceptions intended, and in view of District of Columbia Code provision that no person can become member of partnership without consent of all partners, merger which effectively forced plaintiff to accept new partner without his consent amounted to breach of agreement, and same was true though merger took place by operation of law. *D.C. Code 1973, § 41-317(g). Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

§ 29-605.04. Partner's transferable interest subject to charging order.

(a) On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.

(b) A charging order shall constitute a lien on the judgment debtor's transferable interest in the partnership. The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale shall have the rights of a transferee.

- (c) At any time before foreclosure, an interest charged may be redeemed:
- (1) By the judgment debtor;
 - (2) With property other than partnership property, by one or more of the other partners; or
 - (3) With partnership property, by one or more of the other partners with the consent of all of the partners whose interests are not so charged.
- (d) This chapter shall not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.
- (e) This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-601.09 and § 29-604.05.

Prior Codifications. — 1981 Ed., § 41-155.4.

2001 Ed., § 33-105.04.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 504 of the Uniform Partnership Act (1997 Act).

§ 29-605.05. Power of legal representative of deceased partner.

If a partner dies, the deceased partner's legal representative may exercise:

- (1) The rights of a transferee provided in § 29-605.03(c); and
- (2) For purposes of settling the estate, the rights the deceased partner had under § 29-604.06.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(5)(C), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-601.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter VI. Partner's Dissociation.

§ 29-606.01. Events causing partner's dissociation.

A partner shall be dissociated from a partnership when:

- (1) The partnership has notice of the partner's express will to withdraw as a partner or on a later date specified by the partner;
- (2) An event agreed to in the partnership agreement as causing the partner's dissociation occurs;
- (3) The partner is expelled pursuant to the partnership agreement;
- (4) The partner is expelled by the unanimous vote of the other partners if:
 - (A) It is unlawful to carry on the partnership business with that partner;
 - (B) There has been a transfer of all or substantially all of that partner's transferable interest in the partnership, other than a transfer for security

purposes, or a court order charging the partner's interest, which has not been foreclosed;

(C) Within 90 days after the partnership notifies a corporate partner that it will be expelled because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(D) A partnership that is a partner has been dissolved and its business is being wound up;

(5) On application by the partnership or another partner, the partner is expelled by judicial determination because the partner:

(A) Engaged in wrongful conduct that adversely and materially affected the partnership business;

(B) Willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under § 29-604.04; or

(C) Engaged in conduct relating to the partnership business which makes it not reasonably practicable to carry on the business in partnership with the partner;

(6) The partner:

(A) Became a debtor in bankruptcy;

(B) Executed an assignment for the benefit of creditors;

(C) Sought, consented to, or acquiesced in the appointment of a trustee, receiver, or liquidator of that partner or of all or substantially all of that partner's property; or

(D) Failed, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the partner or of all or substantially all of the partner's property obtained without the partner's consent or acquiescence, or failed within 90 days after the expiration of a stay to have the appointment vacated;

(7) In the case of a partner who is an individual:

(A) The partner dies;

(B) A guardian or general conservator is appointed for the partner; or

(C) There is a judicial determination that the partner has otherwise become incapable of performing the partner's duties under the partnership agreement;

(8) In the case of a partner that is a trust or is acting as a partner by virtue of being a trustee of a trust, the trust's entire transferable interest in the partnership is distributed;

(9) In the case of a partner that is an estate or is acting as a partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the partnership is distributed;

(10) A partner that is not an individual, partnership, corporation, trust, or estate dissolves and completes winding up; or

(11) The partnership participates in a merger, interest exchange, conversion, or domestication under Chapter 2 of this title or Subchapter [subchapter] IX of this chapter and, as a result, the person ceases to be a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(6)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.02, § 29-601.04, § 29-606.02, and § 29-608.01.

Prior Codifications. — 1981 Ed., § 41-156.1.

2001 Ed., § 33-106.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “dissolves and completes winding up; or” for “is terminated” in (10); added (11); and made a related change.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 601 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Change of membership.

Transfer of partner’s interest.

Change of membership.

Partnerships may continue with addition of new partners. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Transfer of partner’s interest.

In view of provisions of partnership as a whole, provisions prohibiting “assignment” or “disposition” of interests in partnership were intended to apply to mere transfer of interest. *Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

Where both parties involved in dispute were extremely experienced business entities and where partnership agreement did provide for certain exceptions to prohibitions against transfer of interest and would presumably have provided for any other exceptions intended, and in view of District of Columbia Code provision that no person can become member of partnership without consent of all partners, merger which effectively forced plaintiff to accept new partner without his consent amounted to breach of agreement, and same was true though merger took place by operation of law. *D.C. Code 1973, § 41-317(g). Nicolas M. Salgo Assocs. v. Continental Ill. Props.*, 532 F. Supp. 279, 1981 U.S. Dist. LEXIS 17127 (1981).

§ 29-606.02. Partner’s power to dissociate; wrongful dissociation.

(a) A partner may dissociate at any time, rightfully or wrongfully, by express will pursuant to § 29-606.01(1).

(b) A partner’s dissociation shall be wrongful only if:

(1) It is in breach of an express provision of the partnership agreement; or

(2) In the case of a partnership for a definite term or particular undertaking, before the expiration of the term or the completion of the undertaking:

(A) The partner withdraws by express will, unless the withdrawal follows within 90 days after another partner’s dissociation by death or otherwise under § 29-606.01(6) through (10) or wrongful dissociation under this subsection;

(B) The partner is expelled by judicial determination under § 29-606.01(5);

(C) The partner is dissociated by becoming a debtor in bankruptcy; or

(D) In the case of a partner that is not an individual, trust other than a business trust, or estate, the partner is expelled or otherwise dissociated because it willfully dissolved or terminated.

(c) A partner that wrongfully dissociates shall be liable to the partnership

and to the other partners for damages caused by the dissociation. The liability shall be in addition to any other obligation of the partner to the partnership or to the other partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-601.04, § 29-607.01, and § 29-608.01.

Prior Codifications. — 1981 Ed., § 41-156.2.
2001 Ed., § 33-106.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 602 of the Uniform Partnership Act (1997 Act).

§ 29-606.03. Effect of partner's dissociation.

(a) If a partner's dissociation results in a dissolution and winding up of the partnership business, subchapter VIII of this chapter shall apply; otherwise, subchapter VII of this chapter applies.

(b) Upon a partner's dissociation:

(1) The partner's right to participate in the management and conduct of the partnership business terminates, except as otherwise provided in § 29-608.03;

(2) The partner's duty of loyalty under § 29-604.04(b)(3) terminates; and

(3) The partner's duty of loyalty under § 29-604.04(b)(1) and (2) and duty of care under § 29-604.04(c) continue only with regard to matters arising and events occurring before the partner's dissociation, unless the partner participates in winding up the partnership's business pursuant to § 29-608.03.

(c) A person's dissociation alone does not discharge the person from a debt, obligation, or other liability to the partnership or to the other partners which the person incurred while a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(6)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04.

Prior Codifications. — 1981 Ed., § 41-156.3.
2001 Ed., § 33-106.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 603 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Admissibility of evidence.
Assets of old firm.
Continued use of firm name.
Death of partner.
Judgment.
Liabilities of retiring partner.

Obligations of old firm.
—Assumption of obligations of old firm.
—In general.
Questions of law and fact.
Weight and sufficiency of evidence.

Admissibility of evidence.

Credit application form signed by defendant and which was an exhibit in another suit to

which plaintiff creditor was not party was inadmissible in creditor's action against defendant for partnership debt incurred after defendant had withdrawn from partnership. *Martinez v. F. Jacobson & Sons, Inc.*, 174 A.2d 735, 1961 D.C. App. LEXIS 328 (Cr.App. 1961).

Assets of old firm.

Where a firm dissolves, by a change in its personnel, the assets of the old firm will not become the property of the new firm without specific and distinct agreement to that effect. *Grafton v. Paine*, 7 App.D.C. 255, 1895 U.S. App. LEXIS 3633 (1895).

Continued use of firm name.

On the termination of a partnership, an agreement was entered into for the continued use by one partner of the firm name; and subsequently, it being shown that advertisements sent out by the other partner were intended to create the impression that the firm had ceased to do business, and that he had succeeded to its business, an order was passed enjoining him from using the firm name, except in sending out the general letter provided for in the agreement. Held, on appeal specially allowed from such order, that the order should be so modified as to apply only to communications in the course of business or made so as to affect the business of the parties. *Siggers v. Snow*, 15 App.D.C. 575, 1900 U.S. App. LEXIS 5268 (1900).

Death of partner.

Though generally every partnership is dissolved by the death of one of the partners where the articles of co-partnership do not stipulate otherwise, yet either one may provide, by his will, for the continuance of the partnership after his death, and bind his estate thereby, or only that portion of it already embarked in the partnership. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S.Dist.Col. 1844).

Where a partner provides in his will that his estate may continue in the partnership, and the survivors assent thereto, the intent of the testator to make his general assets liable must be very clearly expressed, or the liability will be confined to funds already invested. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S.Dist.Col. 1844).

Third persons having notice of death of partner are bound to inquire how far agreement or authority to continue partnership extends and what funds it binds and if they trust surviving party beyond reach of agreement or authority it is their fault and they have no right to redress. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S.Dist.Col. 1844).

An agreement or authority for continuance of partnership after death of partner must be clearly made out. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S.Dist.Col. 1844).

Nothing but the most clear and unambiguous language demonstrating in the most positive manner that the testator intended to make his general assets liable for all debts contracted in continued trade of partnership after his death, and not merely to limit it to funds embarked in that trade would justify court in arriving at such conclusion. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S.Dist.Col. 1844).

Where a testator directed that all his "interest in the copartnership subsisting between" another and himself should "be continued therein until the expiration of the term limited by the articles between us, the business to be conducted by the survivor and the profit or loss to be distributed in the manner the said articles provide," the general assets of the testator in the hands of his executor were not thereby pledged for the future debts, responsibilities, or capital of the firm. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S.Dist.Col. 1844).

At common law, surviving partner acquired right of possession and control of partnership assets. *Ickes v. Gazzam*, 83 F.2d 603, 1936 U.S. App. LEXIS 2593 (1936).

At common law, surviving partner acquired right of possession and control of partnership assets, and was vested with legal title to convert property into money. *Ickes v. Gazzam*, 83 F.2d 603, 1936 U.S. App. LEXIS 2593 (1936).

At common law, surviving partner acquired right of possession and control of partnership assets, and was vested with legal title to convert property into money, to sue for and recover indebtedness due partnership to pay partnership debts and to distribute surplus between himself and deceased partner's estate. *Ickes v. Gazzam*, 83 F.2d 603, 1936 U.S. App. LEXIS 2593 (1936).

At common law, surviving partner acquired right of possession and control of partnership assets and was vested with legal title to pay partnership debts. *Ickes v. Gazzam*, 83 F.2d 603, 1936 U.S. App. LEXIS 2593 (1936).

At common law, surviving partner acquired right of possession and control of partnership assets and was vested with legal title to sue for and recover indebtedness due partnership. *Ickes v. Gazzam*, 83 F.2d 603, 1936 U.S. App. LEXIS 2593 (1936).

Surviving partner, where partnership agreement made no provision for continuation of partnership in event of death or incapacity of one of partners, had duty on death of partner to take possession of partnership estate pending final settlement. *Pomeroy v. Helvering*, 68 F.2d 411, 1933 U.S. App. LEXIS 4970 (1933).

Failure of surviving partners to so designate themselves in complaint held not fatal. *Briesen v. A Certain Fund*, 3 F.2d 509, 1925 U.S. App. LEXIS 3763 (1925).

In a partnership accounting between the administrator of a deceased partner and the sur-

viving partner, involving the distribution of attorneys' fees for the prosecution of claims against the government, in which there were findings by the court of claims and subsequent appropriations by Congress, claims for credit by the surviving partner, who collected the fees, for expenses paid to attorneys to procure appropriations to pay the claims, are properly denied; such services not being the subject of legal contract. *Consaul v. Cummings*, 24 App.D.C. 36, 1904 U.S. App. LEXIS 5295 (1904).

In a partnership accounting between the administrator of a deceased partner and a surviving partner, expenses incurred by the surviving partner in the prosecution of claims against the United States disallowed by the court of claims should be allowed him, where the partnership articles provide for the expenses incurred in the prosecution of allowed claims, but are silent as to the expenses incurred in disallowed claims. *Consaul v. Cummings*, 24 App.D.C. 36, 1904 U.S. App. LEXIS 5295 (1904).

In a partnership accounting between the administrator of a deceased partner and a surviving partner, a claim by the surviving partner for credit for extra compensation for services rendered after his partner's death is properly disallowed, where no unusual services were performed. *Consaul v. Cummings*, 24 App.D.C. 36, 1904 U.S. App. LEXIS 5295 (1904).

The presumption is that a surviving partner, who is ordered to deliver to receivers partnership money collected by him, has not dissipated the money, but has retained it subject to a settlement of partnership affairs; and, if, when so ordered, he has not the money, or any of it, in his possession or under his control, it is incumbent on him to show clearly what disposition has been made of it. *Moyers v. Cummings*, 17 App.D.C. 269, 1900 U.S. App. LEXIS 5347 (1900).

Where, in violation of his duty, a surviving partner has dissipated a fund belonging to the partnership before being ordered by the court to deliver it to receivers, he will be permitted so to show in answer to a rule entered on his disobedience of the order, and on his satisfying the court that he has not the money, or any part of it, in his possession or under his control, direct or indirect, such order may be modified, with a complete or partial discharge of the rule; but, if he cannot make such a satisfactory showing, he should be held in contempt until he produces and surrenders the money. *Moyers v. Cummings*, 17 App.D.C. 269, 1900 U.S. App. LEXIS 5347 (1900).

A surviving partner, who has collected money due the partnership, mingled it with his own, and deposited the whole in bank in his own name, cannot be heard to say that he has converted the fund by so doing, and made himself a mere debtor to the partnership.

Moyers v. Cummings, 17 App.D.C. 269, 1900 U.S. App. LEXIS 5347 (1900).

Where a surviving partner has deposited partnership money in bank to his individual account, in drawing thereon he will be presumed to have first drawn and used his own money, and so much of the fund remaining undrawn as may not be in excess of partnership collections will be regarded in equity as partnership money; the identity of the fund not being lost by the act of commingling. *Moyers v. Cummings*, 17 App.D.C. 269, 1900 U.S. App. LEXIS 5347 (1900).

Whether a surviving partner is to be deemed a trustee of partnership assets or not, a court of equity has power to take from his possession all partnership property, including money, and deliver it to receivers. *Moyers v. Cummings*, 17 App.D.C. 269, 1900 U.S. App. LEXIS 5347 (1900).

Upon a creditor's bill against the surviving partner of a mercantile firm, a receiver may be appointed. *Dick v. Laird*, 7 F.Cas. 668, 1837 U.S. App. LEXIS 286 (1835).

Judgment.

Even though order fixing liability in suit against debtor partnership and general partners named only partnership, partners were bound by determination, under District of Columbia law, where all partners were parties, and all partners that had earlier been found liable. D.C. Code 1981, § 41-114. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

Liabilities of retiring partner.

Under District of Columbia law, once partner withdraws, he or she is not personally liable for debts incurred by partnership thereafter. D.C. Code 1981, § 41-135. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

Continuation of business in firm name is not such holding out as will render withdrawing partner liable for debts of firm contracted after dissolution with person who had not dealt with old firm. *Martinez v. F. Jacobson & Sons, Inc.*, 174 A.2d 735, 1961 D.C. App. LEXIS 328 (Cr.App. 1961).

Obligations of old firm.

— Assumption of obligations of old firm.

Prejudice need not be shown as a condition of defense of release to claim by partnership creditor against a partner who had withdrawn under an agreement with continuing partners that they assume partnership obligations and indemnify retiring partner. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

A withdrawing partner becomes a surety for payment of an obligation where he withdraws

under an agreement with continuing partners that they assume partnership obligations and indemnify withdrawing partner, and notice of such arrangement is given a creditor who acquiesces in the situation, and such relationship occurs by equitable implication rather than by express agreement between creditor and retiring partner. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

Equity would permit discharge of retired partner under an agreement with continuing partners that they assume partnership obligations and indemnify him, only to extent he was prejudiced by extension of time for payment of original indebtedness, if any, resulting from giving of notes by continuing partners. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

The retirement of defendants from a stock brokerage firm between the time the firm became unable to meet its obligations to plaintiff customer and the date the firm became bankrupt does not absolve them from liability although plaintiff continued to do business with the firm, and to receive dividends on the stock in question after defendants' retirement; such acts not amounting to acquiescence by plaintiff in defendants' withdrawal and the acceptance of the responsibility of the new firm for the obligation. *Tuckerman v. Mearns*, 262 F. 607, 1919 U.S. App. LEXIS 1960 (1919).

A retiring member of a partnership the remaining member of which took its assets and assumed its liabilities is not released from liability for failure of the firm to account for stock deposited with it during his membership, by the depositor's agreement with the new firm to leave the proceeds of the stock on deposit with it, for an indefinite time, at less than legal interest. *Mearns v. Chatard*, 47 App.D.C. 257, 1918 U.S. App. LEXIS 2406 (1918).

— In general.

A withdrawing partner would have been discharged from partnership liability if there was an agreement to that effect between himself, remaining partners, and a partnership creditor, and such agreement could be inferred from course of dealing between continuing partners and creditor who had knowledge of dissolution agreement providing that continuing partners would be responsible for partnership debts and indemnify outgoing partner. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

Continued dealing by a creditor with continuing partners, alone, is not enough to show that a partnership creditor consented to an arrangement adopting continuing partners as his debtors, in place of a withdrawing partner. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

A retired member of a firm of stockbrokers which before his retirement redeemed stock wrongfully pledged by it is liable to the owner thereof for its value upon its second wrongful pledge by the new firm. *Mearns v. Chatard*, 47 App.D.C. 257, 1918 U.S. App. LEXIS 2406 (1918).

A new firm, formed by the addition of a new partner, is not liable for the proceeds of goods sold to the old firm, unless such proceeds came to the use of the new firm. *Edmondson v. Barrell*, 8 F.Cas. 322, 1821 U.S. App. LEXIS 365 (1821).

Fact that judgment creditor may not have completed its performance under contract with debtor partnership until two months after general partner left partnership, when creditor had started work more than 18 months earlier, did not relieve former partner of contract liability, under District of Columbia law; former partner offered no evidence as to what portion of claim arose after his withdrawal. D.C. Code 1981, § 41-135. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

Where partner withdraws from partnership under agreement with former partners, and remaining partners continue business, departing partner remains liable for partnership obligations incurred prior to his withdrawal, under District of Columbia law, unless creditor modifies obligation or agrees to release partner. D.C. Code 1981, § 41-135. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

New partners were not liable for obligations of old partnership because when old partnership transferred assets to corporation as new partner, old partnership was legally dissolved and reconstituted with new members, new business purpose, and wholly amended partnership certificate. D.C. Code 1981, §§ 41-116, 41-128. *Dodek v. CF 16 Corp.*, 537 A.2d 1086, 1988 D.C. App. LEXIS 17 (1988).

Defendant, as a retiring member of a partnership, could not absolve himself from liability for a partnership debt contracted while he was a member of the firm, where there was no agreement by creditor to hold only remaining partner liable, even though notice of retirement was given the creditor prior to its shipment of goods for which it sought payment. *Martinez v. McGregor-Doniger, Inc.*, 173 A.2d 221, 1961 D.C. App. LEXIS 265 (Cr.App. 1961).

Questions of law and fact.

Evidence, in action by partnership creditor, against retired partner, was sufficient to present jury question as to whether an agreement to discharge retired partner from liability, and accept continuing partners as debtors, should have been inferred from creditor's actions after knowledge of partner's withdrawal and as-

sumption of debt by continuing partners. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

Weight and sufficiency of evidence.

Evidence, which indicated a history of negotiations between withdrawing partners and remaining partner, that withdrawing partners had demanded release that remaining partner was unwilling to provide, and that withdrawing partners attempted to accept offer made by remaining partner only after time frame for acceptance had elapsed, did not establish that withdrawing partners effectively withdrew from partnership, and obtained release from liability as partners, under District of Columbia law. *Tatge v. Chandler (In re Judiciary Tower Assocs.)*, 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

General partner of Chapter 7 debtor partner-

ship failed to establish that continuing partnership ever agreed to release him from liability or that judgment creditors ever agreed to release him from claim, and thus failed to establish release under District of Columbia law; the assignment by which partner sold his partnership interest only purported to release partner from liability on notes, and agreement was solely between former partner and another partner. D.C. Code 1981, § 41-135(b). *Tatge v. Chandler (In re Judiciary Tower Assocs.)*, 175 B.R. 796, 1994 Bankr. LEXIS 1904 (1994).

Record revealed no basis for trial court's finding that creditor had right to rely on defendant's partnership status at time of extending credit after defendant had withdrawn from partnership. *Martinez v. F. Jacobson & Sons, Inc.*, 174 A.2d 735, 1961 D.C. App. LEXIS 328 (Cr.App. 1961).

Subchapter VII. Partner's Dissociation When Business Not Wound Up.

§ 29-607.01. Purchase of dissociated partner's interest.

(a) If a partner is dissociated from a partnership without resulting in a dissolution and winding up of the partnership business under § 29-608.01, the partnership shall cause the dissociated partner's interest in the partnership to be purchased for a buyout price determined pursuant to subsection (b) of this section.

(b) The buyout price of a dissociated partner's interest shall be the amount that would have been distributable to the dissociating partner under § 29-608.07(b) if, on the date of dissociation, the assets of the partnership were sold at a price equal to the greater of the liquidation value or the value based on a sale of the entire business as a going concern without the dissociated partner and the partnership were wound up as of that date. Interest shall be paid from the date of dissociation to the date of payment.

(c) Damages for wrongful dissociation under § 29-606.02(b), and all other amounts owing, whether or not presently due, from the dissociated partner to the partnership, shall be offset against the buyout price. Interest shall be paid from the date the amount owed becomes due to the date of payment.

(d) A partnership shall indemnify a dissociated partner whose interest is being purchased against all partnership liabilities, whether incurred before or after the dissociation, except liabilities incurred by an act of the dissociated partner under § 29-607.02.

(e) If no agreement for the purchase of a dissociated partner's interest is reached within 120 days after a written demand for payment, the partnership shall pay, or cause to be paid, in cash to the dissociated partner the amount the partnership estimates to be the buyout price and accrued interest, reduced by any offsets and accrued interest under subsection (c) of this section.

(f) If a deferred payment is authorized under subsection (h) of this section, the partnership may tender a written offer to pay the amount it estimates to

be the buyout price and accrued interest, reduced by any offsets under subsection (c) of this section, stating the time of payment, the amount and type of security for payment, and the other terms and conditions of the obligation.

(g) The payment or tender required by subsection (e) or (f) of this section shall be accompanied by the following:

(1) A statement of partnership assets and liabilities as of the date of dissociation;

(2) The latest available partnership balance sheet and income statement, if any;

(3) An explanation of how the estimated amount of the payment was calculated; and

(4) Written notice that the payment is in full satisfaction of the obligation to purchase unless, within 120 days after the written notice, the dissociated partner commences an action to determine the buyout price, any offsets under subsection (c) of this section, or other terms of the obligation to purchase.

(h) A partner that wrongfully dissociates before the expiration of a definite term or the completion of a particular undertaking shall not be entitled to payment of any portion of the buyout price until the expiration of the term or completion of the undertaking, unless the partner establishes to the satisfaction of the court that earlier payment will not cause undue hardship to the business of the partnership. A deferred payment shall be adequately secured and bear interest.

(i) A dissociated partner may maintain an action against the partnership, pursuant to § 29-604.05(b)(2)(B), to determine the buyout price of that partner's interest, any offsets under subsection (c) of this section, or other terms of the obligation to purchase. The action shall be commenced within 120 days after the partnership has tendered payment or an offer to pay or within one year after written demand for payment if no payment or offer to pay is tendered. The court shall determine the buyout price of the dissociated partner's interest, any offset due under subsection (c) of this section, and accrued interest, and enter judgment for any additional payment or refund. If deferred payment is authorized under subsection (h) of this section, the court shall also determine the security for payment and other terms of the obligation to purchase. The court may assess reasonable attorneys' fees and the fees and expenses of appraisers or other experts for a party to the action, in amounts the court finds equitable, against a party that the court finds acted arbitrarily, vexatiously, or not in good faith. The finding may be based on the partnership's failure to tender payment or an offer to pay or to comply with subsection (g) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-601.09.

Prior Codifications. — 1981 Ed., § 41-157.1.

2001 Ed., § 33-107.01.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 701 of the Uniform Partnership Act (1997 Act).

§ 29-607.02. Dissociated partner's power to bind and liability to partnership.

(a) For 2 years after a partner dissociates without resulting in a dissolution and winding up of the partnership business, the partnership, including a surviving partnership under subchapter IX of this chapter, shall be bound by an act of the dissociated partner which would have bound the partnership under § 29-603.01 before dissociation only if at the time of entering into the transaction the other party:

- (1) Reasonably believed that the dissociated partner was then a partner;
- (2) Did not have notice of the partner's dissociation; and
- (3) Is not deemed to have had knowledge under § 29-603.03(e) or notice under § 29-607.04(c).

(b) A dissociated partner shall be liable to the partnership for any damage caused to the partnership arising from a debt, obligation, or other liability incurred by the dissociated partner after dissociation for which the partnership is liable under subsection (a) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(7)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-607.01, § 29-607.04, and § 29-609.03.

Prior Codifications. — 1981 Ed., § 41-157.2.

2001 Ed., § 33-107.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "a debt, obligation, or other liability" for "an obligation" in (b).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 702 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-607.03. Dissociated partner's liability to other persons.

(a) A partner's dissociation shall not of itself discharge the partner's liability for a partnership debt, obligation, or other liability incurred before dissociation. A dissociated partner shall not be liable for a partnership debt, obligation, or other liability incurred after dissociation, except as otherwise provided in subsection (b) of this section.

(b) A partner that dissociates without resulting in a dissolution and winding up of the partnership business shall be liable as a partner to the other party in a transaction entered into by the partnership, or a surviving partnership under subchapter IX of this chapter, within 2 years after the partner's dissociation, only if the partner is liable for the obligation under § 29-603.06 and at the time of entering into the transaction the other party:

- (1) Reasonably believed that the dissociated partner was then a partner;
- (2) Did not have notice of the partner's dissociation; and
- (3) Is not deemed to have had knowledge under § 29-603.03(e) or notice under § 29-607.04(c).

(c) By agreement with the partnership creditor and the partners continuing the business, a dissociated partner may be released from liability for a partnership debt, obligation, or other liability.

(d) A dissociated partner shall be released from liability for a partnership debt, obligation, or other liability if a partnership creditor, with notice of the partner's dissociation but without the partner's consent, agrees to a material alteration in the nature or time of payment of a partnership debt, obligation, or other liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(7)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-607.04, § 29-608.09, § 29-608.11, and § 29-609.03.

Prior Codifications. — 1981 Ed., § 41-157.3.

2001 Ed., § 33-107.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “debt, obligation, or other liability” for “obligation” in (a), (c) and (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 703 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Assumption of obligations of old firm.
Rights of surviving partner.

Assumption of obligations of old firm.

A withdrawing partner becomes a surety for payment of an obligation where he withdraws under an agreement with continuing partners that they assume partnership obligations and indemnify withdrawing partner, and notice of such arrangement is given a creditor who acquiesces in the situation, and such relationship occurs by equitable implication rather than by express agreement between creditor and retiring partner. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

Equity would permit discharge of retired partner under an agreement with continuing partners that they assume partnership obligations and indemnify him, only to extent he was prejudiced by extension of time for payment of original indebtedness, if any, resulting from giving of notes by continuing partners. *White v. Brown*, 292 F.2d 725, 1961 U.S. App. LEXIS 4763 (C.A.D.C. 1961).

The retirement of defendants from a stock brokerage firm between the time the firm became unable to meet its obligations to plaintiff customer and the date the firm became bank-

rupt does not absolve them from liability although plaintiff continued to do business with the firm, and to receive dividends on the stock in question after defendants' retirement; such acts not amounting to acquiescence by plaintiff in defendants' withdrawal and the acceptance of the responsibility of the new firm for the obligation. *Tuckerman v. Mearns*, 262 F. 607, 1919 U.S. App. LEXIS 1960 (1919).

A retiring member of a partnership, the remaining member of which took its assets and assumed its liabilities, is not released from liability for failure of the firm to account for stock deposited with it during his membership, by the depositor's agreement with the new firm to leave the proceeds of the stock on deposit with it, for an indefinite time, at less than legal interest. *Mearns v. Chatard*, 47 App.D.C. 257, 1918 U.S. App. LEXIS 2406 (1918).

Rights of surviving partner.

At common law, surviving partner acquired right of possession and control of partnership assets, and was vested with legal title to convert property into money, to sue for and recover indebtedness due partnership to pay partnership debts and to distribute surplus between himself and deceased partner's estate. *Ickes v. Gazzam*, 83 F.2d 603, 1936 U.S. App. LEXIS 2593 (1936).

§ 29-607.04. Statement of dissociation.

(a) A dissociated partner or the partnership may file a statement of dissociation stating the name of the partnership and that the partner is dissociated from the partnership.

(b) A statement of dissociation shall be a limitation on the authority of a dissociated partner for the purposes of § 29-603.03(d) and (e).

(c) For the purposes of §§ 29-607.02(a)(3) and 29-607.03(b)(3), a person not a partner shall be deemed to have notice of the dissociation 90 days after the statement of dissociation is filed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-601.03, § 29-603.03, § 29-607.02, and § 29-607.03.

Prior Codifications. — 1981 Ed., § 41-157.4.

2001 Ed., § 33-107.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 704 of the Uniform Partnership Act (1997 Act).

§ 29-607.05. Continued use of partnership name.

Continued use of a partnership name, or a dissociated partner's name as part thereof, by partners continuing the partnership's activities and affairs shall not of itself make the dissociated partner liable for a debt, obligation, or other liability of the partners or the partnership continuing the activities and affairs.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(7)(C), 59 DCR 13171.)

Prior Codifications. — 1981 Ed., § 41-157.5.

2001 Ed., § 33-107.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "partnership's activities and affairs" for the first occurrence of "business"; substituted "a debt, obligation, or other liability" for "an obligation"; and substituted "activities and affairs" for the second occurrence of "business."

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 705 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

In general.

On the termination of a partnership, an agreement was entered into for the continued use by one partner of the firm name; and subsequently, it being shown that advertisements sent out by the other partner were intended to create the impression that the firm had ceased to do business, and that he had succeeded to its business, an order was passed

enjoining him from using the firm name, except in sending out the general letter provided for in the agreement. Held, on appeal specially allowed from such order, that the order should be so modified as to apply only to communications in the course of business or made so as to affect the business of the parties. *Siggers v. Snow*, 15 App.D.C. 575, 1900 U.S. App. LEXIS 5268 (1900).

*Subchapter VIII. Dissolution and Winding Up.***§ 29-608.01. Events causing dissolution and winding up of partnership business.**

A partnership is dissolved, and its activities and affairs shall be wound up, only upon the occurrence of any of the following events:

(1) In a partnership at will, the partnership's having notice from a partner, other than a partner that is dissociated under § 29-606.01(2) through (10), of that partner's express will to withdraw as a partner, or on a later date specified by the partner;

(2) In a partnership for a definite term or particular undertaking:

(A) Within 90 days after a partner's dissociation by death or otherwise under § 29-606.01(6) through (10) or wrongful dissociation under § 29-606.02(b), the express will of at least half of the remaining partners to wind up the partnership's activities and affairs, for which purpose a partner's rightful dissociation pursuant to § 29-606.02(b)(2)(A) constitutes the expression of that partner's will to wind up the partnership's activities and affairs;

(B) The express will of all of the partners to wind up the partnership's activities and affairs; or

(C) The expiration of the term or the completion of the undertaking;

(3) An event agreed to in the partnership agreement resulting in the winding up of the partnership activities and affairs;

(4) An event that makes it unlawful for all or substantially all of the business of the partnership to be continued, but a cure of illegality within 90 days after notice to the partnership of the event shall be effective retroactively to the date of the event for purposes of this section;

(5) On application by a partner, a judicial determination that:

(A) The economic purpose of the partnership is likely to be unreasonably frustrated;

(B) Another partner has engaged in conduct relating to the partnership activities and affairs which makes it not reasonably practicable to carry on the activities and affairs in partnership with that partner; or

(C) It is not otherwise reasonably practicable to carry on the partnership activities and affairs in conformity with the partnership agreement.

(6) On application by a transferee of a partner's transferable interest, a judicial determination that it is equitable to wind up the partnership activities and affairs:

(A) After the expiration of the term or completion of the undertaking, if the partnership was for a definite term or particular undertaking at the time of the transfer or entry of the charging order that gave rise to the transfer; or

(B) At any time, if the partnership was a partnership at will at the time of the transfer or entry of the charging order that gave rise to the transfer.

(7) The passage of 90 consecutive days during which the partnership does not have at least 2 partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.04, § 29-605.03, § 29-607.01, and § 29-608.12.

Prior Codifications. — 1981 Ed., § 41-158.1.

2001 Ed., § 33-108.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” or variants thereof for “business”; made related stylistic changes; and added (7).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 801 of the Uniform Partnership Act (1997 Act).

Section 2(f)(8)(A) of D.C. Law 19-210 substituted “Dissolution and Winding Up” for “Winding up Partnership Business” in the subchapter heading.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Abandonment.

Death of partner.

Filing suit.

Irreconcilable differences.

Misconduct of partner.

Sale of firm property.

Termination.

Withdrawal of partner.

Abandonment.

Where partner left business for week or two and when he returned found himself excluded from workshops and from all participation in copartner’s plans, that partner could not participate in business was not a voluntary abandonment of the enterprise. *Ambler v. Whipple*, 87 U.S. 546, 1874 U.S. LEXIS 1445 (U.S. Dist. Col. 1874).

Death of partner.

The death of a partner dissolves a partnership. *Burwell v. Cawood*, 43 U.S. 560, 1844 U.S. LEXIS 345 (U.S. Dist. Col. 1844).

Filing suit.

Where partner suing for dissolution and liquidation of partnership business alleged facts which would entitle him to a dissolution under the Partnership Act, the filing of complaint did not effect a dissolution, wrongful or otherwise, under the Act; dissolution would occur only when decreed by the court or brought about by other actions. D.C. Code § 41-331. *Cooper v. Isaacs*, 448 F.2d 1202, 1971 U.S. App. LEXIS 8366 (C.A.D.C. 1971).

Terms of partnership agreement must be quite specific in order for one partner’s filing suit for dissolution to effect a dissolution of the partnership. D.C. Code §§ 41-330(1)(C), (2), 41-337. *Cooper v. Isaacs*, 448 F.2d 1202, 1971 U.S. App. LEXIS 8366 (C.A.D.C. 1971).

Partner’s sending notice to other partner that suit for dissolution of partnership had been filed did not amount to an unequivocal

expression of intent to terminate the partnership. *Cooper v. Isaacs*, 448 F.2d 1202, 1971 U.S. App. LEXIS 8366 (C.A.D.C. 1971).

Irreconcilable differences.

If complaint in suit for dissolution of partnership because of alleged irreconcilable differences between partners is groundless, thus entitling other partner to relief under the Partnership Act, the date the complaint was filed will be deemed the time of dissolution. D.C. Code §§ 41-330(1)(C), (2), 41-337. *Cooper v. Isaacs*, 448 F.2d 1202, 1971 U.S. App. LEXIS 8366 (C.A.D.C. 1971).

Filing suit seeking dissolution of partnership because of irreconcilable differences between partners regarding matters of policy did not constitute a wrongful dissolution on theory that provisions of partnership agreement regarding termination by sales of interests, mutual consent, retirement, death or incompetency of partner provided only grounds for termination, and appointment of receiver pendente lite was neither invalid nor an abuse of discretion. D.C. Code § 41-337; 18 U.S.C. § 1292. *Cooper v. Isaacs*, 448 F.2d 1202, 1971 U.S. App. LEXIS 8366 (C.A.D.C. 1971).

Misconduct of partner.

Though bad character, drunkenness, and dishonesty on the part of one partner may be good grounds for dissolving a partnership on the application of the other, this other not having known, at the time of forming the partnership, these characteristics of his copartner,—yet when, before the partnership was formed, they were known by the partner not guilty of them to have existed, they do not authorize such partner himself to treat the partnership as ended, and to take to himself all the benefits of the joint labor and joint property. *Ambler v. Whipple*, 87 U.S. 546, 1874 U.S. LEXIS 1445 (U.S. Dist. Col. 1874).

Sale of firm property.

A partnership, even for fixed term, is consensual, and is dissolved by act of all partners

intended to dissolve it, as by their sale of all partnership property. *Brand v. Erisman*, 172 F.2d 28, 1948 U.S. App. LEXIS 1993 (C.A.D.C. 1948).

Termination.

Preparation or even filing of partnership's final tax return is not tantamount to termination. *Berk v. Sherman*, 682 A.2d 209, 1996 D.C. App. LEXIS 180 (1996).

Withdrawal of partner.

Withdrawal of one partner from two-man

partnership dissolved partnership and terminated partnership's regional directors agency agreement with insurance company, where partnership had not assigned agreement with consent of company to surviving partner. *Burns' Ann.St.Ind.* § 50-429. *Ford v. Lafayette Life Ins. Co.*, 362 F.2d 970, 1966 U.S. App. LEXIS 6086 (C.A.D.C. 1966).

§ 29-608.02. Partnership continues after dissolution.

(a) Subject to subsection (b) of this section, a partnership shall continue after dissolution only for the purpose of winding up its activities and affairs. The partnership shall be terminated when the winding up of its activities and affairs is completed.

(b) At any time after the dissolution of a partnership and before the winding up of its activities and affairs is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's activities and affairs wound up and the partnership terminated. In that event:

(1) The partnership shall resume carrying on its activities and affairs as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver shall be determined as if dissolution had never occurred; and

(2) The rights of a third party accruing under § 29-608.04(1) or arising out of conduct in reliance on the dissolution before the third party knew or received a notification of the waiver shall not be adversely affected.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.03.

Prior Codifications. — 1981 Ed., § 41-158.2.

2001 Ed., § 33-108.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "business" throughout (a) and (b).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 802 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Duty of partners.

In general.

Liability, generally.

Powers of partners.

Duty of partners.

Between dissolution and completion of wind

up of partnership, partners have fiduciary obligation to hold partnership assets for benefit of other partners. *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

In completing unfinished business for partnership's benefit, each partner remains accountable as fiduciary to former partners, and any diversion of benefits for former partner's

own personal or professional gain is breach of fiduciary duty. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

In general.

In the absence of a partnership agreement providing otherwise, all matters pending at a dissolved law partnership at the time of dissolution are “uncompleted transactions” under the District of Columbia Partnership Act, and are subject to winding up and distribution according to the former partner’s respective interests, whether the partnership was to be compensation on an hourly fee or a contingency fee basis. D.C. Code 1981, § 41-120(a) (repealed). *Robinson v. Nussbaum*, 11 F.Supp.2d 1, 1997 U.S. Dist. LEXIS 22699 (1997).

Winding up can be contemporaneous with dissolution when partners expressly or impliedly agree to transfer their shares of business to continuing partner; transfer is for sum which may include outgoing partner’s percentage of profits from unfinished business earned before date of dissolution, and take form of agreed-upon accounting concurrent with dissolution. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Liability, generally.

Where bill drawn in name of member of

partnership was drawn for purpose of paying partnership debt and proceeds of bill were used for that purpose, other member of partnership which had been dissolved would not be liable on bill unless the partnership traded under the name and firm of the name of partner drawing the bill. *Le Roy, Bayard & Co. v. Johnson*, 27 U.S. 186, 1829 U.S. LEXIS 398 (U.S. Dist. Col. 1829).

Partners even after dissolution, continue to be liable to those with whom they have previously dealt as partners, who have no knowledge of dissolution. *Pottash Bros. v. Burnet*, 50 F.2d 317, 1931 U.S. App. LEXIS 4450 (1931).

Powers of partners.

Dissolution of partnership revokes power of partner to create new contract. *Pottash Bros. v. Burnet*, 50 F.2d 317, 1931 U.S. App. LEXIS 4450 (1931).

Ordinarily, when partnership is dissolved, authority of individual partners is terminated. *Pottash Bros. v. Burnet*, 50 F.2d 317, 1931 U.S. App. LEXIS 4450 (1931).

§ 29-608.03. Right to wind up partnership.

(a) After dissolution, a partner that has not wrongfully dissociated may participate in winding up the partnership’s activities and affairs, but on application of any partner, partner’s legal representative, or transferee, the Superior Court, for good cause shown, may order judicial supervision of the winding up.

(b) The legal representative of the last surviving partner may wind up a partnership’s activities and affairs.

(c) A person winding up a partnership’s activities and affairs may preserve the partnership activities or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, settle and close the partnership’s activities, dispose of and transfer the partnership’s property, discharge the partnership’s liabilities, distribute the assets of the partnership pursuant to § 29-608.07, settle disputes by mediation or arbitration, and perform other necessary acts.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-606.03.

Prior Codifications. — 1981 Ed., § 41-158.3.

2001 Ed., § 33-108.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “business” in (a) and

(b) and for the first occurrence of “business” in (c); and substituted “activities” for the second and third occurrences of “business” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 803 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Duty of partners.

Between dissolution and completion of wind up of partnership, partners have fiduciary ob-

ligation to hold partnership assets for benefit of other partners. *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

§ 29-608.04. Partner's power to bind partnership after dissolution.

Subject to § 29-608.05, a partnership shall be bound by a partner's act after dissolution that:

- (1) Is appropriate for winding up the partnership activities and affairs; or
- (2) Would have bound the partnership under § 29-603.01 before dissolution, if the other party to the transaction did not have notice of the dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-608.02, § 29-608.05, and § 29-608.06.

Prior Codifications. — 1981 Ed., § 41-158.4.

2001 Ed., § 33-108.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "business" in (1).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 804 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Knowledge of dissolution.
Payment of bills, generally.
Renewals.

Knowledge of dissolution.

If member of former partnership deals with another, in his individual name, and upon his sole responsibility without even an allusion to the partnership, it is unimportant to the other to know that the partnership is dissolved and failure to disclose such dissolution does not entitle the other to hold noncontracting partner. *Le Roy, Bayard & Co. v. Johnson*, 27 U.S. 186, 1829 U.S. LEXIS 398 (U.S. Dist. Col. 1829).

If one of partners contracted in name of his firm, with a third person, after the partnership was dissolved but that fact was not made public or known by such third person, the law would consider the contract as being made with the firm and upon their credit. *Le Roy, Bayard & Co. v. Johnson*, 27 U.S. 186, 1829 U.S. LEXIS 398 (U.S. Dist. Col. 1829).

Partners even after dissolution, continue liable to those with whom they have previously dealt as partners, who have no knowledge of dissolution. *Pottash Bros. v. Burnet*, 50 F.2d 317, 1931 U.S. App. LEXIS 4450 (1931).

Where partnership fails to give general notice of voluntary dissolution, power of individual partners to bind all partners as to third persons without knowledge of dissolution remains in force. *Pottash Bros. v. Burnet*, 50 F.2d 317, 1931 U.S. App. LEXIS 4450 (1931).

Payment of bills, generally.

Where bill drawn in name of member of partnership was drawn for purpose of paying partnership debt and proceeds of bill were used for that purpose, other member of partnership which had been dissolved would not be liable on bill unless the partnership traded under the name and firm of the name of partner drawing the bill. *Le Roy, Bayard & Co. v. Johnson*, 27 U.S. 186, 1829 U.S. LEXIS 398 (U.S. Dist. Col. 1829).

The surviving partner cannot charge the es-

tate of the firm by drawing bills, after the dissolution, for advances on shipments made to its regular factor. *Dick v. Laird*, 7 F.Cas. 668, 1837 U.S. App. LEXIS 286 (1837).

Renewals.

In an action against the indorser of a prom-

issory note, made in the name of a firm, it is not material that the partnership of the makers had been dissolved before the making of the note; it being the renewal of a note given during the existence of the partnership. *Greatrake v. Brown*, 10 F.Cas. 1067, 1824 U.S. App. LEXIS 348 (1824).

§ 29-608.05. Statement of dissolution.

(a) After dissolution, a partner that has not wrongfully dissociated may file a statement of dissolution stating the name of the partnership and that the partnership has dissolved and is winding up its activities and affairs.

(b) A statement of dissolution shall cancel a filed statement of partnership authority for the purposes of § 29-603.03(d) and shall be a limitation on authority for the purposes of § 29-603.03(e).

(c) For the purposes of §§ 29-603.01 and 29-608.04, a person not a partner shall be deemed to have notice of the dissolution and the limitation on the partners' authority as a result of the statement of dissolution 90 days after it is filed.

(d) After filing and, if appropriate, recording a statement of dissolution, a dissolved partnership may file and, if appropriate, record a statement of partnership authority which will operate with respect to a person not a partner as provided in § 29-603.03(d) and (e) in any transaction, whether or not the transaction is appropriate for winding up the partnership activities and affairs.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-601.03, § 29-603.03, and § 29-608.04.

Prior Codifications. — 1981 Ed., § 41-158.5.

2001 Ed., § 33-108.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "business" in (a) and (d).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 805 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-608.06. Partner's liability to other partners after dissolution.

(a) Except as otherwise provided in subsection (b) of this section and § 29-603.06, after dissolution, a partner shall be liable to the other partners for the partner's share of any partnership liability incurred under § 29-608.04.

(b) A partner that, with knowledge of the dissolution, incurs a partnership liability under § 29-608.04(2) by an act that is not appropriate for winding up the partnership activities and affairs shall be liable to the partnership for any damage caused to the partnership arising from the liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(G), 59 DCR 13171.)

Section references. — This section is referenced in § 29-608.09 and § 29-608.11.

Prior Codifications. — 1981 Ed., § 41-158.6.

2001 Ed., § 33-108.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “business” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Uniform Law: This section is based on § 806 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-608.07. Settlement of accounts and contributions among partners.

(a) In winding up a partnership’s activities and affairs, the assets of the partnership, including the contributions of the partners required by this section, shall be applied to discharge its obligations to creditors, including, to the extent permitted by law, partners who are creditors. Any surplus shall be applied to pay in cash the net amount distributable to partners in accordance with their right to distributions under subsection (b) of this section.

(b) Each partner shall be entitled to a settlement of all partnership accounts upon winding up the partnership activities and affairs. In settling accounts among the partners, profits and losses that result from the liquidation of the partnership assets shall be credited and charged to the partners’ accounts. The partnership shall make a distribution to a partner in an amount equal to any excess of the credits over the charges in the partner’s account. A partner shall contribute to the partnership an amount equal to any excess of the charges over the credits in the partner’s account but excluding from the calculation charges attributable to an obligation for which the partner is not personally liable under § 29-603.06.

(c) If a partner fails to contribute the full amount required under subsection (b) of this section, all of the other partners shall contribute, in the proportions in which those partners share partnership losses, the additional amount necessary to satisfy the partnership obligations for which they are personally liable under § 29-603.06. A partner or partner’s legal representative may recover from the other partners any contributions the partner makes to the extent the amount contributed exceeds that partner’s share of the partnership obligations for which the partner is personally liable under § 29-603.06.

(d) After the settlement of accounts, each partner shall contribute, in the proportion in which the partner shares partnership losses, the amount necessary to satisfy partnership obligations that were not known at the time of the settlement and for which the partner is personally liable under § 29-603.06.

(e) The estate of a deceased partner shall be liable for the partner’s obligation to contribute to the partnership.

(f) An assignee for the benefit of creditors of a partnership or a partner, or

a person appointed by a court to represent creditors of a partnership or a partner, may enforce a partner's obligation to contribute to the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(H), 59 DCR 13171.)

Section references. — This section is referenced in § 29-607.01, § 29-608.03, § 29-609.03, and § 29-610.02.

Prior Codifications. — 1981 Ed., § 41-158.7.

2001 Ed., § 33-108.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "business" in (a) and (b).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Uniform Law: This section is based on § 807 of the Uniform Partnership Act (1997 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Charges and credits.

Compensation for services in winding up business.

Defenses.

Discharge of obligations.

Division of capital.

Division of profits.

Nature and scope of remedy.

Parties.

Pleading.

Presumptions and burden of proof.

Private accounting and settlement.

Property and transactions included.

Receivers.

Repayment to partners.

Review.

Time to sue, limitations, and laches.

Uncompleted transactions.

Weight and sufficiency of evidence.

Charges and credits.

In partnership accounting, neither party would be charged with bad or uncollected debts, they being simply deducted from the profits and the loss thus being equally divided. *Gunnell v. Bird*, 77 U.S. 304, 1869 U.S. LEXIS 1067 (U.S. Dist. Col. 1869).

Compensation for services in winding up business.

Rule that when partnership business is continued by others after dissolution, partner who contributed only personal services that ceased upon dissolution should not share in profits earned by postdissolution entity does not apply to fees earned or received for winding up unfinished business of dissolved partnership when one partner has exercised right to compel liquidation and distribution of surplus; application of rule is limited to situations where out-

going partner elects not to exercise his right to force liquidation, but instead permits continuation of business by other partners, or when partners agree to settle their accounts contemporaneously with dissolution with understanding that one or more will continue business. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Defenses.

Where it appeared that plaintiff, an alien, knowingly permitted defendant to take out a liquor license and conduct partnership restaurant business in defendant's name in violation of the Alcoholic Beverage Control Act, plaintiff could not maintain an action for an accounting, since a court will not specifically enforce or conduct an accounting under an illegal contract between parties who are both at fault. *D.C. Code Supp. V, T. 20, §§ 1909(a), 1914(a) (2), (3), 1933. Chippas v. Valltos*, 123 F.2d 153, 1941 U.S. App. LEXIS 2656 (1941).

Discharge of obligations.

A firm business was sold subject to a chattel deed of trust securing notes made by one of the partners and indorsed by the other partner, the proceeds of which had been used in the business, under agreement that the notes were to secure the indorsing partner for money advanced and debts assumed by him for the firm account, and the holders of the notes accepted in lieu thereof the purchaser's notes, payable monthly in from one to fifty months, similarly secured and individually indorsed by the same partner who had indorsed the other notes, and the latter, in order to consummate the sale, personally guaranteed that the purchaser would pay the rent of the premises in which the business was being conducted. Held, in a suit for a firm accounting, that the cancellation of the old notes and their surrender to the partner

making them did not discharge him from liability to his copartner on account of the indebtedness represented by them, and entitle him to claim an equal part of the new notes, and to have them delivered to him at once and unconditionally, in view of the continuing liability of the copartner, who had individually indorsed the new notes and guaranteed the payment of the rent by the purchaser. *Van Fleet v. King*, 33 App.D.C. 47, 1909 U.S. App. LEXIS 6034 (1909).

Where an attorney, having claims for prosecution in the Court of Claims, turned over the cases to another attorney for prosecution, under an agreement to pay him one-half of the fees collected, and the latter, after the death of the former, agreed to pay a local attorney one-half of the fee in one of the cases, the decedent's estate is not bound by such agreement, but can only be charged with one-half of the reasonable value of the services performed by the local attorney. *Consaul v. Cummings*, 30 App.D.C. 540, 1908 U.S. App. LEXIS 5569 (1908).

Absent agreement to contrary, fees owed by partnership between dissolution and completion of windup must be shared regardless of which partner provides for postdissolution services. *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

Liabilities of partnership existing at time of its dissolution must be included in computation at dissolution. D.C. Code §§ 41-333, 41-337, 41-339. *Cooper v. Saunders-Hunt*, 365 A.2d 626, 1976 D.C. App. LEXIS 402 (1976).

Division of capital.

Uniform Partnership Act would be applied in deciding whether partner's estate included entire value of three partnership savings accounts, where record did not indicate that partners' rights in those funds were established before the Act was adopted. D.C. Code § 41-301 et seq. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

Division of profits.

Under articles dissolving partnership and providing that one partner should have merchandise in jewelry store and debts due to that store as compensation in lieu of profits of whole business and that copartner should hold merchandise in hardware store and debts due to it and the profits of the trade, copartner was entitled to a debt due from jewelry store to hardware store as part of profits of jewelry store, notwithstanding copartner's undertaking to satisfy all debts due from or entered into by partnership for benefit of partnership, since that debt was not a claim on the partnership. *Finley v. Lynn*, 6 Cranch 238, 10 U.S. 238, 3 L. Ed. 211, 1810 U.S. LEXIS 337 (U.S. Dist. Col. 1810).

Under articles dissolving partnership and providing that one partner should have merchandise in jewelry store and debts due to that store as compensation in lieu of the profits of the whole business and that copartner should hold the merchandise in hardware store and the debts due to it and the profits of the trade, profits, if any, of jewelry store, independent of goods on hand and of debts due to that store, were payable to copartner. *Finley v. Lynn*, 6 Cranch 238, 10 U.S. 238, 3 L. Ed. 211, 1810 U.S. LEXIS 337 (U.S. Dist. Col. 1810).

In a partnership accounting between the estate of a deceased partner and the surviving partner, involving fees collected in the prosecution of cases in the Court of Claims, the share of the estate of the deceased partner in a fee in one of the partnership cases cannot properly be reduced by an arrangement made by the surviving partner with a local attorney whereby the local attorney's original share of the fee was increased from 10 to 15 per cent. for procuring a new fee agreement, in the name of the surviving partner, with the heirs of the claimant. *Consaul v. Cummings*, 30 App.D.C. 540, 1908 U.S. App. LEXIS 5569 (1908).

In a partnership accounting between the representatives of the estates of deceased attorneys, where the administrators of one of the attorneys, after his death, through another attorney, procured a power of attorney to themselves and him from a former client of the partnership and a new contingent fee contract, and prosecuted the case, the partnership is entitled to only so much of the fee received as was earned by the partnership up to the time of the death of the partner last deceased. *Consaul v. Cummings*, 30 App.D.C. 540, 1908 U.S. App. LEXIS 5569 (1908).

Where an attorney prosecuting claims under a partnership agreement with another attorney, since deceased, who had the original powers of attorney from the claimants, procured new powers of attorney from the claimants in the names of his son-in-law and daughter, who were assisting him in the cases, and they prosecuted the cases in their names, and after his death collected the fees, the estate of the partner first deceased is entitled to one-half of the fees so collected. *Consaul v. Cummings*, 30 App.D.C. 540, 1908 U.S. App. LEXIS 5569 (1908).

Under District of Columbia law, profits derived from transactions which are not yet completed at the time of partnership dissolution remain the property of the partnership, even if these profits are received after the partnership's dissolution. D.C. Code 1981, § 41-120(a) (repealed). *Robinson v. Nussbaum*, 11 F.Supp.2d 1, 1997 U.S. Dist. LEXIS 22699 (1997).

Where there is no agreement for distribution of profits realized by partnership after dissolu-

tion, formula in effect at time of dissolution controls. D.C. Code 1981, § 41-139(2). *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

Fees for predissolution work in process paid after dissolution to dissolved partnership or to withdrawing partners may lose their status as asset subject to distribution by agreement of partners to divide them upon dissolution when one or more partners wants to continue business. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

If partner insists on liquidation upon dissolution, line of demarcation for determining amount owing to respective partners is not dissolution but completion of winding up of partnership business; between dissolution and completion of winding up, fiduciary obligation of each partner to partnership with respect to any transaction connected with conduct or liquidation of partnership continues in force, and any profits derived from completion of such unfinished business inures to partnership's benefit even if received after dissolution. D.C. Code 1981, §§ 41-120, 41-134(a)(1), 41-137(a). *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Generally, a partner who, after dissolution of the firm, makes profits from continued operations shall be accountable to his coadventurer; however, the reason underlying this responsibility is the continued use by the partner of his coadventurer's property. *Hudson v. Kemper*, 153 A.2d 316, 1959 D.C. App. LEXIS 367 (Cr.App. 1959).

Nature and scope of remedy.

Settlement of partnership and adjustment of accounts and interests of the co-partners are matters peculiarly of equitable cognizance. *Luff v. Luff*, 158 F.Supp. 311, 1958 U.S. Dist. LEXIS 2741 (D.D.C.1958).

When partnership becomes insolvent, or partner seeks to withdraw from partnership and settle accounts, or when partnership is otherwise wound up, procedure used is accounting. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 170 B.R. 8, 1994 Bankr. LEXIS 1083 (1994).

In accounting, all assets and liabilities of partnership are determined and allocation of profits or losses among partners is established. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 170 B.R. 8, 1994 Bankr. LEXIS 1083 (1994).

Partnership accounting is equitable action. *Tatge v. Chandler* (In re Judiciary Tower Assocs.), 170 B.R. 8, 1994 Bankr. LEXIS 1083 (1994).

Former partner has right to accounting upon dissolution of partnership, including court intervention if accounting is refused. D.C. Code

1981, § 41-121. *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

If partnership's business involves single completed transaction or only one or a few items, and no complicated accounts are involved such that accounting or appraisal is necessary to fix amount due partner, partner may sue at law for share of partnership assets. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Partner has right to accounting upon dissolution, and has right to obtain assistance of court if such accounting is refused. D.C. Code 1981, § 41-121. *Washington Medical Center, Inc. v. Holle*, 573 A.2d 1269, 1990 D.C. App. LEXIS 99 (1990).

Partner has right to accounting upon dissolution and has right to obtain assistance of court if such an accounting is refused. D.C. Code 1981, § 41-121. *Warren v. Chapman*, 535 A.2d 856, 1987 D.C. App. LEXIS 515 (1987).

Parties.

In suit to settle partnership, involving title to property claimed by another partnership, of which defendant was member, other member of such second partnership was not necessary party defendant. *Carroll v. Moebs*, 18 F.2d 815, 1927 U.S. App. LEXIS 2065 (1927).

In a suit in equity for the settlement of the accounts of a partnership consisting of three persons, one of whom has died insolvent, his next of kin, or other personal representatives, are necessary parties. *Bartle v. Coleman*, 2 F.Cas. 964, 1828 U.S. App. LEXIS 281 (1828).

Pleading.

Complaint sufficiently alleged existence of partnership based on oral agreement to state claim for wrongful dissolution of partnership by other putative partners, regardless of putative partners' claims that they did not intend to form partnership, which could not be properly raised on motion to dismiss. Civil Rule 12(b)(6); D.C. Code 1981, § 41-105(a). *Fraser v. Gottfried*, 636 A.2d 430, 1994 D.C. App. LEXIS 7 (1994).

Presumptions and burden of proof.

If member of partnership knew of entries of charges against the partnership entered in the books of the partnership, and made no objection, the member's assent to the allowance of the charges would be presumed. *Withers v. Withers*, 33 U.S. 355, 1834 U.S. LEXIS 594 (U.S. Dist. Col. 1834).

A presumption existed that members of partnership had full knowledge of entry of charges against the partnership entered in the books of the partnership. *Withers v. Withers*, 33 U.S. 355, 1834 U.S. LEXIS 594 (U.S. Dist. Col. 1834).

On appeal by plaintiff in a suit for the dissolution of a partnership from a decree based upon a finding of fact that a general partner-

ship did not exist, this court affirmed the decree, although in doubt as to whether the evidence showed that plaintiff had been fairly treated by defendant; the court not being satisfied that the plaintiff had discharged the burden upon him of showing that a general partnership existed. *Smith v. Lancaster*, 37 App.D.C. 25, 1911 U.S. App. LEXIS 5624 (1911).

Where, in a suit by the administrator of a deceased partner for a partnership accounting, the defense of the surviving partner is that he purchased the interest of his deceased partner in the partnership property, the burden is on the defendant to so show by clear and satisfactory proof. *Consaul v. Cummings*, 24 App.D.C. 36, 1904 U.S. App. LEXIS 5295 (1904).

When partnership accounting has been referred to special master, trial court is required to adopt master's findings of fact unless clearly erroneous; presumption of correctness attaches to master's findings, and party accepting to them bears burden of showing clear error. Civil Rule 53(e)(2). *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

When the plaintiff, in an accounting against his partner, has affirmatively shown that defendant has violated his contract of copartnership by secretly engaging in a competitive business in which he has received more than sufficient moneys to pay him for his share of the profits thereof, the burden will be upon said defendant to show that, as to certain of said secret operations, he never received his share of the profits. *Kilbourn v. Latta*, 18 D.C. 80 (D.C. Sup. 1888).

Private accounting and settlement.

Two partners, engaged in prosecuting claims against the government, had a partnership settlement. One had the more intimate knowledge of the business affairs, and the settlement was based upon his representation as to the value of the fees collected, and of the claims in their hands. Immediately after the settlement he left the city, turning over to the other a schedule, footed up, and showing in detail all the claims, collected and on hand, together with the fees provided for. This schedule was in the latter's hands for nearly a month, during which time, and until his partner returned, he had entire charge of the firm's affairs; frequently referring to, and making entries upon, said schedule. Held, that he must have known the amount of claims on hand, and all fees coming to the firm, at the time of the settlement, or shortly thereafter. *Baker v. Cummings*, 18 S.Ct. 367, 1898 U.S. LEXIS 1482 (U.S. Dist. Col. 1898).

Suit by former partners for accounting and recovery of property assigned by them pursuant to agreement dissolving partnership, sought on ground of fraud more than four years

after execution of agreement, held barred by laches, where no reasonable excuse for delay was shown (D.C. Code 1929, T. 24, § 341). *Singer v. Friedman*, 85 F.2d 690, 1936 U.S. App. LEXIS 4224 (1936).

Former partners held not entitled to recover partnership property assigned by them pursuant to written agreement dissolving partnership, on ground of fraud in denying them information of financial standing of partnership and in paying them inadequate amount for their interest in partnership, where agreement stated that assets of partnership were set forth in assignment, and property conveyed was subject to liens for most of its value. *Singer v. Friedman*, 85 F.2d 690, 1936 U.S. App. LEXIS 4224 (1936).

Former partners seeking recovery of partnership property assigned by them pursuant to written agreement dissolving partnership on ground of fraud in its execution held not entitled to relief, where they had not restored money received by them as consideration for assignment. *Singer v. Friedman*, 85 F.2d 690, 1936 U.S. App. LEXIS 4224 (1936).

The management of a certain partnership transaction was left by plaintiff in the hands of defendant, his copartner and son-in-law. Held, that a delay of 16 years did not bar plaintiff's right to demand a reaccounting, defendant having fraudulently represented the profits of the transaction, where it appeared that complainant, until shortly before commencement of the suit for reaccounting, was ignorant of defendant's fraud, and did not possess knowledge of such circumstances as would put an ordinarily prudent person upon inquiry in regard thereto. *Murphy v. Kirby*, 3 App.D.C. 207, 1894 U.S. App. LEXIS 3281 (1894).

Subject to rights of creditors and in absence of fraud, partners may agree to distribution of partnership property on dissolution which is different from that which would obtain under Uniform Partnership Act in absence of an agreement. D.C. Code §§ 41-337, 41-339, 41-342. *District of Columbia v. Riggs Nat'l Bank*, 335 A.2d 238, 1975 D.C. App. LEXIS 352 (1975).

Property and transactions included.

Where the advantage gained by a partner in a transaction which he concealed from his copartner was vague and indefinite, it will not be considered in an accounting between the parties. *Cooper v. Olcott*, 1 App.D.C. 123, 1893 U.S. App. LEXIS 3016 (1893).

Where plaintiff and defendant entered into agreement in which a settlement or balance was struck disposing of all partnership assets and property and plaintiff then had knowledge of certain unfinished business and made no provision concerning it, there was a complete severance of the relationship with nothing left

of the partnership venture, and plaintiff thereafter ran no risk of loss to his property or former property interest, and consequently such unfinished business did not survive the dissolution and plaintiff could assert no claim against defendant who finished such business. *Hudson v. Kemper*, 153 A.2d 316, 1959 D.C. App. LEXIS 367 (Cr.App. 1959).

Receivers.

Court is justified in appointing receiver for preservation of partnership assets and liquidation where disagreements between partners endanger partnership good will and property. *Creel v. Creel*, 73 F.2d 107, 1934 U.S. App. LEXIS 2611 (1934).

Evidence as to disagreements between partners held sufficient to authorize appointment of receiver, absent allegation of defendant's insolvency, mismanagement, or inability to respond in damages. *Chaparas v. Kountakis*, 42 F.2d 351, 1930 U.S. App. LEXIS 4276 (1930).

Plaintiff suing for dissolution of alleged partnership held not entitled to appointment of receiver, absent allegation of defendant's insolvency, mismanagement, or inability to respond in damages. *Chaparas v. Kountakis*, 42 F.2d 351, 1930 U.S. App. LEXIS 4276 (1930).

Whether to appoint receiver upon dissolution of partnership is within discretion of trial court. *Young v. Delaney*, 647 A.2d 784, 1994 D.C. App. LEXIS 170 (1994).

Repayment to partners.

A partner in a scheme to develop and market certain real estate should on accounting be credited with whatever has been properly expended for the common enterprise, whether of material benefit or not. *Campbell v. Northwest Eckington Imp. Co.*, 33 S.Ct. 796, 1913 U.S. LEXIS 2469 (U.S. Dist. Col. 1913).

Review.

Where the court was of opinion that the auditor committed an error in partnership accounting proceeding, but the facts were confined within narrow limits and were so clearly ascertained by the proofs and admissions of the parties before the auditor, the Supreme Court would not refer the case back for further report, since to do so would constitute useless formality. *Gunnell v. Bird*, 77 U.S. 304, 1869 U.S. LEXIS 1067 (U.S. Dist. Col. 1869).

In suit to settle partnership, findings of special master are presumptively, but not conclusively, correct. *Carroll v. Moebis*, 18 F.2d 815, 1927 U.S. App. LEXIS 2065 (1927).

Since there was ample evidence, in action for accounting of proceeds accruing under partnership, to support trial court's findings of fact, and conclusions flowed from findings and reflected no error of law on part of trial court, which concluded that plaintiff was entitled to amount she had contributed to partnership, the Court of Appeals was required to affirm. D.C.

Code § 17-305(a); D.C. Code SCR, Civil Rule 52(a). *Cooper v. Saunders-Hunt*, 365 A.2d 626, 1976 D.C. App. LEXIS 402 (1976).

Time to sue, limitations, and laches.

Laches is no defense in a suit brought for settlement of partnership accounts, and to set aside a sale by one partner of his partnership interest to his co-partner, which is void for want of consideration. *Baker v. Cummings*, 4 App.D.C. 230, 1894 U.S. App. LEXIS 3334 (1894).

The Statute of Limitations is a good plea in bar of a suit against the representatives of a deceased partner for an account, if there have been no dealings within three years before the filing of the bill, and no admissions on the part of the testator or the representatives to take the case out of the statute. *Hewett v. Lewis*, 15 D.C. 10 (D.C. Sup. 1885).

Uncompleted transactions.

In the absence of a partnership agreement providing otherwise, all matters pending at a dissolved law partnership at the time of dissolution are "uncompleted transactions" under the District of Columbia Partnership Act, and are subject to winding up and distribution according to the former partner's respective interests, whether the partnership was to be compensation on an hourly fee or a contingency fee basis. D.C. Code 1981, § 41-120(a) (repealed). *Robinson v. Nussbaum*, 11 F. Supp. 2d 1, 1997 U.S. Dist. LEXIS 22699 (1997).

Winding up can be contemporaneous with dissolution when partners expressly or impliedly agree to transfer their shares of business to continuing partner; transfer is for sum which may include outgoing partner's percentage of profits from unfinished business earned before date of dissolution, and take form of agreed-upon accounting concurrent with dissolution. *Beckman v. Farmer*, 579 A.2d 618, 1990 D.C. App. LEXIS 183 (1990).

Weight and sufficiency of evidence.

In proceedings for partnership accounting, evidence was sufficient to rebut presumption that member of partnership had knowledge of all charges entered in the books of the partnership and by failing to object thereto, assented to their allowance. *Withers v. Withers*, 33 U.S. 355, 1834 U.S. LEXIS 594 (U.S. Dist. Col. 1834).

Special master's findings respecting loss sustained by partnership in fruit business, payments for fruit by one partner, and payments as between partners, held not sustained by evidence. *Falcone v. Paradiso*, 54 F.2d 715, 1931 U.S. App. LEXIS 4004 (1931).

In action for accounting of proceeds accruing under partnership, evidence only established amounts paid in partnership and not what profits and expenses partnership had, in accordance with which trial court limited plaintiff's

recovery. *Cooper v. Saunders-Hunt*, 365 A.2d 626, 1976 D.C. App. LEXIS 402 (1976).

As respects partner's contention in action for accounting that two partners operated illegal numbers business during time they carried on other ventures and that income from all facets of partnership was commingled and therefore court should not enforce partnership agreement in view of illegal aspect of partnership, trial court's findings of fact that during life of partnership each real estate venture netted profit, thus removing any possibility that illegal numbers activity sustained or underwrote legal activities involving real estate, were supported by evidence and, since plaintiff partner

did not ask at trial for accounting of proceeds and profits, but only that precise sum of money she had invested in partnership be returned to her, trial court properly enforced agreement so far as real estate ventures were concerned. *Cooper v. Saunders-Hunt*, 365 A.2d 626, 1976 D.C. App. LEXIS 402 (1976).

No decree will be made in a bill for an account between partners, if the parties have been so negligent as to lose the evidence of the partnership, or have kept their accounts so loosely that the court cannot see what decree would do justice between them. *Rick v. Neitzky*, 12 D.C. 21 (D.C. Sup. 1881).

§ 29-608.08. Known claims against dissolved limited liability partnership.

(a) Except as otherwise provided in subsection (d) of this section, a dissolved limited liability partnership may give notice of a known claim under subsection (b) of this section, which has the effect provided in subsection (c) of this section.

(b) A dissolved limited liability partnership may, in a record, notify its known claimants of the dissolution. The notice must:

- (1) Specify the information required to be included in a claim;
- (2) State that a claim must be in writing and provide a mailing address to which the claim is to be sent;
- (3) State the deadline for receipt of a claim, which may not be less than 120 days after the date the notice is received by the claimant;
- (4) State that the claim will be barred if it is not received by the deadline; and

(5) Unless the partnership has been throughout its existence a limited liability partnership, state that the barring of a claim against the partnership will also bar any corresponding claim against any partner or person dissociated as a partner which is based on § 29-603.06.

(c) A claim against a dissolved limited liability partnership is barred if the notice requirements of subsection (b) of this section are met and:

- (1) The claim is not received by the specified deadline; or
- (2) If the claim is timely received but rejected by the limited liability partnership:

(A) The partnership causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the partnership to enforce the claim not later than 90 days after the date the claimant receives the notice; and

(B) The claimant does not commence the required action not later than 90 days after the claimant receives the notice.

(d) This section does not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(I), 59 DCR 13171.)

Section references. — This section is referenced in § 29-608.09, § 29-608.10, § 29-608.11, and § 29-610.02.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-608.09. Other claims against dissolved limited liability partnership.

(a) A dissolved limited liability partnership may publish notice of its dissolution and request persons having claims against the partnership to present them in accordance with the notice.

(b) A notice under subsection (a) of this section must:

(1) Be published at least once in a newspaper of general circulation in the District of Columbia, or, if the principal office is not located in the District of Columbia, in the appropriate court where the partnership's principal office is or was last located;

(2) Describe the information required to be contained in a claim, state that the claim must be in writing, and provide a mailing address to which the claim is to be sent;

(3) State that a claim against the partnership is barred unless an action to enforce the claim is commenced not later than 3 years after publication of the notice; and

(4) Unless the partnership has been throughout its existence a limited liability partnership, state that if a claim against the partnership is barred, any corresponding claim against any partner or person dissociated as a partner which is based on § 29-603.06 is also barred.

(c) If a dissolved limited liability partnership publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce the claim against the partnership not later than 3 years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under § 29-608.08;

(2) A claimant whose claim was timely sent to the partnership but not acted on; and

(3) A claimant whose claim is contingent on or based on an event occurring after the effective date of dissolution.

(d) A claim not barred under this section or § 29-608.08(c) may be enforced as follows:

(1) Against a dissolved limited liability partnership, a claim may be enforced to the extent of its undistributed assets;

(2) Except as otherwise provided in § 29-608.10(d), if assets of the partnership have been distributed after dissolution, a claim may be enforced against a partner or transferee to the extent of that person's proportionate share of the claim or of the partnership's assets distributed to the partner or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph may not exceed the total amount of assets distributed to the person after dissolution; and

(3) A claim may be enforced against any person liable on the claim under § 29-603.06, 29-607.03, or 29-608.06.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(I), 59 DCR 13171.)

Section references. — This section is referenced in § 29-604.05, § 29-608.10, § 29-608.11, and § 29-610.02.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-608.10. Court proceedings.

(a) A dissolved limited liability partnership that has published a notice under § 29-608.09 may file an application with the Superior Court, or, if the principal office is not located in the District, an appropriate court where the office of its principal office is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved partnership, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under § 29-608.08(c).

(b) Not later than 10 days after the filing of an application under subsection (a) of this section, the dissolved limited liability partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the partnership.

(c) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability partnership.

(d) A dissolved limited liability partnership that provides security in the amount and form ordered by the court under subsection (a) of this section satisfies the partnership's obligations with respect to claims that are contingent, have not been made known to the partnership, or are based on an event occurring after the effective date of dissolution, and the claims may not be enforced against a partner or transferee who receives assets in liquidation.

(e) This section applies only to a debt, obligation, or liability incurred while a partnership was a limited liability partnership.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(I), 59 DCR 13171.)

Section references. — This section is referenced in § 29-608.09, § 29-608.11, and § 29-610.02.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-608.11. Liability of partner and person dissociated as partner when claim against limited liability partnership is barred.

If a claim against a dissolved limited liability partnership is barred under § 29-608.08(c), 29-608.09(c), or 29-608.10, any corresponding claim under § 29-603.06, 29-607.03, or 29-608.06 is also barred.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(I), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-601.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-608.12. Rescinding dissolution.

(a) A partnership may rescind its dissolution, unless a statement of termination applicable to the partnership is effective or the Superior Court has entered an order under § 29-608.01(5) or (6) dissolving the partnership.

(b) Rescinding dissolution under this section requires:

(1) The consent of each partner;

(2) If a statement of dissolution applicable to the partnership has been filed by the Mayor but has not become effective, delivery to the Mayor for filing of a statement of withdrawal under § 29-102.04 applicable to the statement of dissolution; and

(3) If a statement of dissolution applicable to the partnership is effective, the delivery to the Mayor for filing of a statement of correction under § 29-102.05 stating that dissolution has been rescinded under this section.

(c) If a partnership rescinds its dissolution:

(1) The partnership resumes carrying on its activities and affairs as if dissolution had never occurred;

(2) Subject to paragraph (3) of this subsection, any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(8)(I), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-601.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter IX. Mergers and Internal Exchanges.

§ 29-609.01. Definitions.

For the purposes of this subchapter, the term:

(1) "General partner" means a partner in a partnership and a general partner in a limited partnership.

(2) “Limited partner” means a limited partner in a limited partnership.

(3) “Limited partnership” means a limited partnership created under Chapter 2 of this title, predecessor law, or comparable law of another jurisdiction.

(4) “Partner” includes both a general partner and a limited partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 41-159.1.

2001 Ed., § 33-109.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 901 of the Uniform Partnership Act (1997 Act).

§ 29-609.02. Merger of partnerships.

(a) Pursuant to a plan of merger approved as provided in subsection (c) of this section, a partnership may be merged with one or more partnerships.

(b) The plan of merger shall set forth:

(1) The name of each partnership that is a party to the merger;

(2) The name of the surviving partnership into which the other partnerships will merge;

(3) The terms and conditions of the merger;

(4) The manner and basis of converting the interests of each party to the merger into interests or obligations of the surviving partnership, or into money or other property in whole or part; and

(5) The street address of the surviving partnership’s principal office.

(c) The plan of merger shall be approved by all of the partners, or a number or percentage specified for merger in the partnership agreement.

(d) After a plan of merger is approved and before the merger takes effect, the plan may be amended or abandoned as provided in the plan.

(e) The merger shall be effective on the later of:

(1) The filing of all documents required by law to be filed as a condition to the effectiveness of the merger; or

(2) Any effective date specified in the plan of merger.

(f) A merger in which a partnership and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 41-159.5.

2001 Ed., § 33-109.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 905 of the Uniform Partnership Act (1997 Act).

§ 29-609.03. Effect of merger.

(a) When a merger takes effect:

(1) The separate existence of every partnership that is a party to the merger, other than the surviving partnership, shall cease;

(2) All property owned by each of the merged partnerships vests in the surviving partnership;

(3) All obligations of every partnership that is a party to the merger shall be the obligations of the surviving partnership;

(4) An action or proceeding pending against a partnership that is a party to the merger may be continued as if the merger had not occurred, or the surviving partnership may be substituted as a party to the action or proceeding; and

(5) If the plan of merger provides for a person to become a partner in a surviving domestic partnership, the person becomes a partner without the need for the consent that would otherwise be required by § 29-604.01(i).

(b) Service of process in an action or proceeding against a surviving foreign partnership to enforce an obligation of a domestic partnership that is a party to a merger may be served pursuant to § 29-104.12.

(c) A partner of the surviving partnership shall be liable for:

(1) All obligations of a party to the merger for which the partner was personally liable before the merger;

(2) All other obligations of the surviving partnership incurred before the merger by a party to the merger, but those obligations shall be satisfied only out of property of the partnership; and

(3) Except as otherwise provided in § 29-603.06, all obligations of the surviving partnership incurred after the merger takes effect.

(d) Except as otherwise provided in § 29-603.06, if the obligations incurred before the merger by a party to the merger are not satisfied out of the property of the surviving partnership, the general partners of that party immediately before the effective date of the merger shall contribute the amount necessary to satisfy that party's obligations to the surviving partnership, in the manner provided in § 29-608.07 as if the merged party were dissolved.

(e) A partner of a party to a merger who is not a partner of the surviving partnership shall be dissociated from the partnership of which that partner was a partner, as of the date the merger takes effect. A surviving domestic partnership shall be bound under § 29-607.02 by an act of a general partner dissociated under this subsection, and the partner shall be liable under § 29-607.03 for transactions entered into by the surviving partnership after the merger takes effect.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 41-159.6.

2001 Ed., § 33-109.06.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 906 of the Uniform Partnership Act (1997 Act).

§ 29-609.04. Statement of merger.

(a) After a merger, the surviving partnership may file a statement that the parties to the merger have merged into the surviving partnership.

(b) A statement of merger shall contain:

(1) The name of each partnership that is a party to the merger;

(2) The name of the surviving partnership into which the other partnerships were merged; and

(3) The street address of the surviving partnership's principal office and of an office in the District, if any.

(c) Except as otherwise provided in subsection (d) of this section, for the purposes of § 29-603.02, property of the surviving partnership that before the merger was held in the name of another party to the merger shall be property held in the name of the surviving partnership upon filing a statement of merger.

(d) For the purposes of § 29-603.02, real property of the surviving partnership that before the merger was held in the name of another party to the merger shall be property held in the name of the surviving partnership upon recording a certified copy of the statement of merger in the office for recording transfers of that real property.

(e) A filed and, if appropriate, recorded statement of merger, executed and declared to be accurate pursuant to § 29-601.05(c), stating the name of a partnership that is a party to the merger in whose name property was held before the merger and the name of the surviving partnership, but not containing all of the other information required by subsection (b) of this section, shall operate with respect to the partnerships named to the extent provided in subsections (c) and (d) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 41-159.7.

2001 Ed., § 33-109.07.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 907 of the Uniform Partnership Act (1997 Act).

§ 29-609.05. Interest exchanges.

(a) One or more domestic or foreign partnerships may adopt a plan of interest exchange by which a domestic or foreign partnership acquires all of the outstanding partnership interests of one or more domestic partnerships in exchange for cash or securities of the acquiring domestic or foreign partnership, if:

(1) Each domestic or foreign partnership, the partnership interests of which are to be acquired under the plan of exchange, approves the plan of exchange in the manner prescribed in its partnership agreement; and

(2) Each acquiring domestic or foreign partnership takes all action that may be required by the laws of the state under which it was formed and as required by its partnership agreement in order to effect the exchange.

(b) A statement of interest exchange shall be signed on behalf of a domestic acquired entity and delivered to the Mayor for filing in accordance with § 29-102.03(a). When an interest exchange takes effect as provided in the plan of exchange:

(1) The partnership interest of each domestic partnership that is to be acquired under the plan of exchange shall be considered exchanged as provided in the plan of exchange;

(2) The former holders of the partnership interests exchanged under the plan of exchange shall be entitled only to the exchange rights provided in the plan of exchange; and

(3) The acquiring domestic or foreign partnership shall be entitled to all rights, title, and interest with respect to the partnership interests so acquired and exchanged, subject to the provisions in the plan of exchange.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(f)(9), 59 DCR 13171.)

Section references. — This section is referenced in § 29-203.01.

Prior Codifications. — 1981 Ed., § 41-159.8.

2001 Ed., § 33-109.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-609.06. Nonexclusive.

This subchapter shall not be exclusive. Partnerships may merge or engage in interest exchanges in any other manner provided or permitted by law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 41-159.9.

2001 Ed., § 33-109.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 909 of the Uniform Partnership Act (1997 Act).

Subchapter X. Limited Liability Partnership.

§ 29-610.01. Statement of qualification.

(a) A partnership may become a limited liability partnership pursuant to this section.

(b) The terms and conditions on which a partnership becomes a limited liability partnership shall be approved by the vote necessary to amend the partnership agreement except, in the case of a partnership agreement that expressly considers obligations to contribute, the vote necessary to amend those provisions.

(c) After the approval required by subsection (b) of this section, a partner-

ship may become a limited liability partnership by delivering to the Mayor for filing a statement of qualification. The statement shall contain:

(1) The name of the partnership, which shall satisfy the requirements of §§ 29-103.01 and 29-103.02(e);

(2) The street address of the partnership's principal office and, if different, the street address of an office in District, if any;

(3) If the partnership does not have an office in District, the information required by § 29-104.04;

(4) A statement that the partnership elects to be a limited liability partnership; and

(5) A deferred effective date, if any.

(d) The agent of a limited liability partnership for service of process shall be an individual who is a resident of the District or other person authorized to do business in the District.

(e) The status of a partnership as a limited liability partnership shall be effective on the later of the filing of the statement or a date specified in the statement. The status shall remain effective, regardless of changes in the partnership, until it is canceled pursuant to § 29-601.05(d) or revoked pursuant to § 29-106.01(3).

(f) The status of a partnership as a limited liability partnership and the liability of its partners shall not be affected by errors or later changes in the information required to be contained in the statement of qualification under subsection (c) of this section.

(g) The filing of a statement of qualification establishes that a partnership has satisfied all conditions precedent to the qualification of the partnership as a limited liability partnership.

(h) An amendment or cancellation of a statement of qualification shall be effective when it is filed or on a deferred effective date specified in the amendment or cancellation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-601.02, § 29-601.11, § 29-602.01, § 29-603.06, and § 29-604.09.

Prior Codifications. — 1981 Ed., § 41-160.1.

2001 Ed., § 33-110.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1001 of the Uniform Partnership Act (1997 Act).

§ 29-610.02. Limitations on distributions by limited liability partnership.

(a) A limited liability partnership may not make a distribution, including a distribution under § 29-608.08, if after the distribution:

(1) The limited liability partnership would not be able to pay its debts as they become due in the ordinary course of the partnership's activities and affairs; or

(2) Except as permitted in the partnership agreement, the limited liability partnership's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the partnership were to be dissolved

and wound up at the time of the distribution, to satisfy the preferential rights of the partners and transferees upon dissolution and winding up whose preferential rights are superior to the right to receive distributions of the persons receiving the distribution.

(b) A limited liability partnership may base a determination that a distribution is not prohibited under subsection (a) of this section on:

(1) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

(2) A fair valuation or other method that is reasonable under the circumstances.

(c) Except as otherwise provided in subsection (e) of this section, the effect of a distribution under subsection (a) of this section is measured:

(1) In the case of a distribution as defined in § 29-601.02(3), as of the earlier of the date:

(A) Money or other property is transferred or debt is incurred by the limited liability partnership; or

(B) The person entitled to the distribution ceases to own the interest or rights being acquired by the limited liability partnership in return for the distribution;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs not later than 120 days after that date; or

(B) The payment is made, if the payment occurs more than 120 days after the distribution is authorized.

(d) A limited liability partnership's indebtedness to a partner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the limited liability company's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(e) A limited liability partnership's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that a payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is made.

(f) In measuring the effect of a distribution under § 29-608.07, the debts and liabilities of a dissolved limited liability partnership do not include any claim that has been disposed of under § 29-608.08, 29-608.09, or 29-608.10.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(10), 59 DCR 13171.)

Section references. — This section is referenced in § 29-604.01 and § 29-610.03.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-610.03. Liability for improper distributions by limited liability partnership.

(a) If a partner of a limited liability partnership consents to a distribution made in violation of § 29-610.02 and in consenting to the distribution fails to comply with § 29-604.07, the partner is personally liable to the partnership for the amount of the distribution which exceeds the amount that could have been distributed pursuant to § 29-610.02.

(b) A person that receives a distribution knowing that the distribution violated of § 29-604.07 is personally liable to the limited liability partnership but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid in accordance with § 29-604.07.

(c) A person against which an action is commenced because the person is liable under subsection (a) of this section may:

(1) Implead any other person that is liable under subsection (a) of this section and seek to enforce a right of contribution from the person; and

(2) Implead any person that received a distribution in violation of subsection (b) of this section and seek to enforce a right of contribution from the person in the amount the person received in violation of subsection (b) of this section.

(d) An action under this section is barred if not commenced not later than 2 years after the distribution.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(10), 59 DCR 13171.)

Section references. — This section is referenced in § 29-605.03.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-610.04. Administrative revocation of statement of qualification.

(a) The Mayor may commence a proceeding under subsections (b) and (c) of this section to revoke the statement of qualification of a limited liability partnership administratively if the partnership does not:

(1) Pay any fee, tax, or penalty required to be paid to the Mayor not later than 6 months after it is due;

(2) Deliver a biennial report to the Mayor not later than 6 months after it is due; or

(3) Have a registered agent in this state for 60 consecutive days. “(b) If the Mayor determines that one or more grounds exist for administratively revoking a statement of qualification, the Mayor shall serve the partnership with notice in a record of the Mayor’s determination.

(c) If a limited liability partnership, not later than 60 days after service of the notice is effected under subsection (b) of this section, does not cure or demonstrate to the satisfaction of the Mayor the nonexistence of each ground determined by the Mayor, the Mayor shall administratively revoke the statement of qualification by signing a statement of administrative revocation

that recites the grounds for revocation and the effective date of the revocation. The Mayor shall file the statement and serve a copy on the partnership pursuant to § 29-102.10.

(d) An administrative revocation under subsection (c) of this section affects only a partnership's status as a limited liability partnership and is not an event causing dissolution of the partnership.

(e) The administrative revocation of a statement of qualification of a limited liability partnership does not terminate the authority of its registered agent.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(10), 59 DCR 13171.)

Section references. — This section is referenced in § 29-610.05.

Legislative history of Law 19-210. — See note to § 29-601.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-610.05. Reinstatement.

(a) A partnership whose statement of qualification has been revoked administratively under § 29-610.04 may apply to the Mayor for reinstatement of the statement of qualification not later than 2 years after the effective date of the revocation. The application must state:

(1) The name of the partnership at the time of the statement of qualification was administratively revoked, and, if needed, a different name that satisfies §§ 29-103.01 and 29-103.02;

(2) The address of the principal office of the partnership and the name and address of its registered agent;

(3) The effective date of administrative revocation of the partnership's statement of qualification; and

(4) That the grounds for revocation did not exist or have been cured.

(b) To have its statement of qualification reinstated, a partnership must pay all fees, taxes, and penalties that were due to the Mayor at the time of the administrative revocation and all fees, taxes, and penalties that would have been due to the Mayor while the partnership's statement of qualification was revoked administratively.

(c) If the Mayor determines that the application contains the information required by subsection (a) of this section, is satisfied that the information is correct, and determines that all payments required to be made to the Mayor by subsection (b) of this section have been made, the Mayor shall:

(1) Cancel the statement of revocation;

(2) Prepare a statement of reinstatement stating the Mayor's determination and the effective date of reinstatement;

(3) File the statement of reinstatement; and

(4) Serve a copy on the partnership.

(d) When reinstatement under this section is effective:

(1) It relates back to and takes effect as of the effective date of the administrative revocation; and

(2) The partnership's status as a limited liability partnership continues as if the revocation had never occurred, except for the rights of a person arising

out of an act or omission in reliance on the revocation before the person knew or had notice of the reinstatement.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(10), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-610.06. Judicial review of denial of reinstatement.

(a) If the Mayor denies a partnership's application for reinstatement following administrative revocation of the partnership's statement of qualification, the Mayor shall serve the partnership with notice in a record that explains the reasons for the denial.

(b) A partnership may seek judicial review of a denial of reinstatement in Superior Court not later than 30 days after service of the notice of denial.

(Mar. 5, 2013, D.C. Law 19-210, § 2(f)(10), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter XI. Transition Provisions.

§ 29-611.01. Application to existing relations.

(a) This chapter shall apply to a partnership formed after the applicability date of this chapter and to a partnership that elects, as provided by subsection (c) of this section, to be governed by this chapter.

(b) On and after one year after the applicability date of this chapter, this chapter shall govern all partnerships, whenever formed.

(c) After the applicability date of this chapter, a partnership voluntarily may elect, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be governed by this chapter. The provisions of this chapter relating to the liability of the partnership's partners to third parties shall apply to limit those partners' liability to a third party that had done business with the partnership within one year before the partnership's election to be governed by this chapter only if the third party knows or has received a notification of the partnership's election to be governed by this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-601.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

BUSINESS ORGANIZATIONS

CHAPTER 7. LIMITED PARTNERSHIPS.

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Subchapter I. General Provisions.

§ 29-701.01. Short title.

This chapter may be cited as the “Uniform Limited Partnership Act of 2010”.
 (July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 101 of the Uniform Limited Partnership Act (2001 Act).

§ 29-701.02. Definitions.

For the purposes of this chapter, the term:

- (1) “Certificate of limited partnership” means the certificate required by § 29-702.01. The term includes the certificate as amended or restated.
- (2) “Contribution”, except in the phrase “right of contribution”, means any benefit described in § 705.01 provided by a person to a limited partnership to become a partner or in the person’s capacity as a partner.
- (3) “Distribution” means a transfer of money or other property from a limited partnership to a person on account of a transferable interest or in the person’s capacity as a partner.
 - (A) The term includes:
 - (i) A redemption or other purchase by a limited partnership of a transferable interest; and
 - (ii) A transfer to a partner in return for the partner’s relinquishment of any right to participate as a partner in the management or conduct of the

partnership's activities and affairs or to have access to records or other information concerning the partnership's activities and affairs; and

(B) The term does not include amounts constituting reasonable compensation for present or past service or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

(4) "Foreign limited liability limited partnership" means a foreign limited partnership whose general partners have limited liability for the debts, obligations, or other liabilities of the foreign limited partnership under a provision similar to § 29-704.04(c).

(5) "Foreign limited partnership" means a partnership formed under the laws of a jurisdiction other than the District which would be a limited partnership if formed under the laws of the District. The term includes a foreign limited liability limited partnership.

(6) "General partner" means:

(A) With respect to a limited partnership, a person that:

(i) Becomes a general partner under § 29-704.01; or was a general partner in a limited partnership when the limited partnership became subject to this chapter under § 29-711.01(a) or (b); and

(ii) Has not dissociated as a general partner under § 29-706.03; and]

(B) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a general partner in a limited partnership.

(7) "Limited liability limited partnership", except in the phrase "foreign limited liability limited partnership", means a limited partnership whose certificate of limited partnership states that the limited partnership is a limited liability limited partnership.

(8) "Limited partner" means:

(A) With respect to a limited partnership, a person that:

(i) Becomes a limited partner under § 29-703.01; or was a limited partner in a limited partnership when the limited partnership became subject to this chapter under § 29-711.01(a) or (b); and

(ii) Has not dissociated as a limited partner under § 29-706.01; and]

(B) With respect to a foreign limited partnership, a person that has rights, powers, and obligations similar to those of a limited partner in a limited partnership.

(9) "Limited partnership", except in the phrases "foreign limited partnership" and "foreign limited liability limited partnership", or "domestic limited partnership", means an entity, having one or more general partners and one or more limited partners, which is formed under this chapter by 2 or more persons or becomes subject to this chapter under subchapter X of this chapter, Chapter 2 of this title, or § 29-711.01(a) or (b). The term includes a limited liability limited partnership.

(10) "Partner" means a limited partner or general partner.

(11) "Partnership agreement" means the partners' agreement, whether oral, implied, in a record, or in any combination, concerning the matters described in § 29-701.07. The term includes the agreement as amended or restated.

(12) “Person dissociated as a general partner” means a person dissociated as a general partner of a limited partnership.

(13) “Required information” means the information that a limited partnership is required to maintain under § 29-701.08.

(14) “Transferable interest” means the right, as initially owned by a person in the person’s capacity as a partner, to receive distributions from a limited partnership in accordance with the partnership agreement, whether or not the person remains a partner or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(15) “Transferee” means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a partner. The term includes a person that owns a transferable interest under § 29-706.02(a)(3) or § 29-706.05(a)(5).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-705.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was

adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Uniform Law: This section is based on § 102 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Constructive notice.

Member of law firm which was professional corporation could be charged with “constructive notice” under the District of Columbia Uniform Partnerships Act, that special master in proceeding was also representing party adverse to another of the law firm’s clients in an unrelated

action, and thus member waived objection to special master’s service, based upon appearance of partiality, by failing to object until after special master’s report had been filed. D.C. Code 1981, § 41-401 et seq. *Jenkins v. Sterlacci*, 856 F.2d 274, 1988 U.S. App. LEXIS 12368 (C.A.D.C. 1988).

§ 29-701.03. Knowledge and notice.

(a) A person knows a fact if the person has actual knowledge of it.

(b) A person has notice of a fact if the person:

(1) Knows of it;

(2) Has received a notification of it;

(3) Has reason to know it exists from all of the facts known to the person at the time in question; or

(4) Has notice of it under subsection (c) or (d) of this section.

(c) A certificate of limited partnership on file in the office of the Mayor shall be notice that the partnership is a limited partnership and the persons designated in the certificate as general partners are general partners. Except

as otherwise provided in subsection (d) of this section, the certificate shall not be notice of any other fact.

(d) A person has notice of:

(1) Another person's dissociation as a general partner, 90 days after the effective date of an amendment to the certificate of limited partnership which states that the other person has dissociated or 90 days after the effective date of a statement of dissociation pertaining to the other person, whichever occurs first;

(2) A limited partnership's dissolution, 90 days after the effective date of an amendment to the certificate of limited partnership stating that the limited partnership is dissolved;

(3) A limited partnership's termination, 90 days after the effective date of a statement of termination;

(4) A limited partnership's conversion or domestication under Chapter 2 of this title, 90 days after the effective date of the statement of conversion or domestication;

(5) A merger under subchapter X of this chapter, 90 days after the effective date of the articles of merger; and

(6) A merger or interest exchange under Chapter 2 of this title, 90 days after the effective date of the statement of merger or interest exchange.

(e) A person notifies or gives a notification to another person by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person learns of it.

(f) A person receives a notification when the notification:

(1) Comes to the person's attention; or

(2) Is delivered at the person's place of business or at any other place held out by the person as a place for receiving communications.

(g) Except as otherwise provided in subsection (h) of this section, a person other than an individual knows, has notice, or receives a notification of a fact for purposes of a particular transaction when the individual conducting the transaction for the person knows, has notice, or receives a notification of the fact, or in any event when the fact would have been brought to the individual's attention if the person had exercised reasonable diligence. A person other than an individual exercises reasonable diligence if it maintains reasonable routines for communicating significant information to the individual conducting the transaction for the person and there is reasonable compliance with the routines. Reasonable diligence shall not require an individual acting for the person to communicate information unless the communication is part of the individual's regular duties or the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(h) A general partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership shall be effective immediately as knowledge of, notice to, or receipt of a notification by the limited partnership, except in the case of a fraud on the limited partnership committed by or with the consent of the general partner. A limited partner's knowledge, notice, or receipt of a notification of a fact relating to the limited partnership shall not be effective as knowledge of, notice to, or receipt of a notification by the limited partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-704.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 103 of the Uniform Limited Partnership Act (2001 Act).

§ 29-701.04. Nature, purpose, and duration of entity.

(a) A limited partnership is an entity distinct from its partners. A limited partnership is the same entity regardless of whether its certificate states that the limited partnership is a limited liability limited partnership.

(b) A limited partnership may be formed under this chapter for any lawful purpose, regardless of whether for profit.

(c) A limited partnership shall have a perpetual duration.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-711.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210, in (b), substituted “formed” for “organized” and added “regardless of whether for profit.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 104 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Actions.

Nature of limited partnerships, generally.
Ownership of partnership property.
Purpose of Act.
Successors in interest.

Actions.

Under District of Columbia law, either an express contract or a contract implied-in-fact requiring limited partnership to pay architecture firm for additional services rendered at firm's customary hourly rates was established by evidence that work was invoiced without partnership's objections separately and under different project names than work on initial submission, and by evidence that firm's representative stated to partnership's representative that “there was going to be protracted negotiation/discussion” and that firm was “going to go on an hourly basis,” to which partnership's representative replied, “fine, just bill me.” *Shalom Baranes Assocs., P.C. v. 900 F St. Corp.*, 940 F. Supp. 1, 1996 U.S. Dist. LEXIS 14782 (1996).

Even if, under District of Columbia law, limited partners could institute derivative action

on behalf of general partnership, limited partners failed to make required showing that general partner was disabled from instituting an action. *Silverman v. Weil*, 662 F. Supp. 1195, 1987 U.S. Dist. LEXIS 4572 (1987), affirmed by 839 F.2d 824, 268 U.S. App. D.C. 145, 1988 U.S. App. LEXIS 7639 (1988).

Limited partnership could not be sued in its common name under District of Columbia law. *Fed.R.Civ.Proc. Rule 17(b)*, 18 U.S.C. National R. Passenger Asso. v. Union Station Associates, 643 F. Supp. 192, 1986 U.S. Dist. LEXIS 22190 (1986).

Rail Passenger Service Act statute which authorizes lessee to enter into contracts for use of railroad facility did not give lessee claim for relief for breach of lease, which remained common-law action, and, therefore, did not give lessee substantive right to bring action against limited partnership in its own name. *Fed.Rules Civ.Proc.Rules 11, 17(b)*, 18 U.S.C.; Rail Passenger Service Act of 1970, § 305(a), as amended, 45 U.S.C. § 545(a); C.G.S.A. § 34-15; D.C. Code 1981, §§ 41-207, 41-226. National R. Passenger Asso. v. Union Station Associates, 643 F. Supp. 192, 1986 U.S. Dist. LEXIS 22190 (1986).

An accounting relating to a limited partnership results in a money judgment for or against each general partner according to the balance struck. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Plaintiff general and limited partners had burden of persuasion as to claims that sole managing general partner breached his fiduciary duties and breached the limited partnership agreement as to amount of consulting fee paid to a company affiliated with managing partner, for company's role in selling partnership's realty, where partners had expressly agreed in partnership agreement to "self-dealing" by managing partner and all partners were aware that managing partner would be paid a commission for his efforts. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Any individual associated with purported limited partnership where proper formalities have not been complied with is not necessarily as matter of law liable as general partner. D.C. Code 1981, § 41-211 (repealed). *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Nature of limited partnerships, generally.

A special or limited partnership, unlike a corporation, may become bound in respect of matters foreign to its original objects and express powers by the customary practice of all the partners, or by that of one or more managing partners, with the apparent knowledge and acquiescence of all of the others concerned. *Woodward v. Nelligan*, 19 App.D.C. 550, 1902 U.S. App. LEXIS 5415 (1902).

Even if Brokerage Act had been violated because company affiliated with limited partnership's sole managing general partner did not hold a real estate brokerage license but had been retained under a consulting agreement to sell partnership's realty, there was no breach of partnership agreement's requirement that managing partner's self-dealing be conducted on "on terms and standards for performance customarily provided in the [District of Columbia]," where the partners agreed that the managing partner was qualified to negotiate the sales transaction. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Equities did not favor requiring company affiliated with limited partnership's sole managing general partner to return fee it earned under consulting agreement for sale of partnership's realty, even if Brokerage Act had been violated because company had not held a real estate brokerage license, where the majority of partners had approved of the fee amount and the partnership received valuable services performed efficaciously by the managing partner.

Marmac Inv. Co. v. Wolpe, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Sole managing general partner of limited partnership did not breach his fiduciary duties by receiving, through an affiliated company, a consulting fee relating to sale of partnership's realty, where managing partner acted in partnership's best interest, worked effectively to obtain the results the partnership desired, had the agreement of all the partners that he should be compensated, and obtained the agreement of the necessary majority of the partners regarding the amount of the compensation. *Marmac Inv. Co. v. Wolpe*, 759 A.2d 620, 2000 D.C. App. LEXIS 227 (2000).

Limited partnership was not mere continuation of corporation from which it purchased assets, so that partnership and limited partner, who allegedly exercised control over partnership, were not liable for corporation's debts under contract for advertising and marketing services for newspaper, even though corporation was general partner and both corporation and partnership were involved in development of newspaper; corporation continued to exist as separate entity after formation of partnership, partnership was formed for separate purpose, there was no evidence of inadequate consideration, and corporation took steps to meet its obligations under contract after it transferred assets to partnership in that it retained some assets and anticipated management fees and share of profits from partnership. *Bingham v. Goldberg, Marchesano, Kohlman, Inc.*, 637 A.2d 81, 1994 D.C. App. LEXIS 14 (1994).

Purpose of limited partnership is to provide mechanism for person to contribute to capital of business without being bound for obligations of business and in that regard, limited partner status resembles status of shareholders in modern corporation. Uniform Limited Partnership Act, § 1. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Ownership of partnership property.

Statute setting limits on financial transactions that limited partner can conduct with partnership prohibits limited partner from owning security interest in partnership property only if partnership was insolvent when interest was created. D.C. Code 1981, § 41-213 (repealed). *Adams v. Slonim*, 924 F.2d 256, 1991 U.S. App. LEXIS 807 (C.A.D.C. 1991).

Statute prohibiting limited partner from obtaining security interest in partnership property when partnership is insolvent was not violated by partner who obtained assignment of security interest, even if partnership was insolvent at time of assignment, where partnership was not insolvent at time original creditor obtained security interest. D.C. Code 1981, § 41-213 (repealed). *Adams v. Slonim*, 924 F.2d

256, 1991 U.S. App. LEXIS 807 (C.A.D.C. 1991).

Purpose of Act.

Provisions of Limited Partnership Act are primarily designed to protect creditors rather than partners in their dealings among themselves. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

Successors in interest.

Successors in interest of limited partner were not entitled to share in the distribution of gain from the sale of the partnership's leasehold

interest and improvements, as the term "profits," as used in partnership agreement, the distribution of which limited partner was prohibited from sharing during the period of time that the original permanent financing was in effect, was intended to include gain from the sale of partnership assets, and as the leasehold interest and improvements of the partnership were sold subject to the original permanent financing, so that the financing remained in effect at the time that profit from the sale of partnership's assets was received. *Scrimgeour v. Magazine*, 429 A.2d 187, 1981 D.C. App. LEXIS 252 (1981).

§ 29-701.05. Powers.

A limited partnership shall have the powers to do all things necessary or convenient to carry on its activities or affairs, including the power to sue, be sued, and defend in its own name and to maintain an action against a partner for harm caused to the limited partnership by a breach of the partnership agreement or violation of a duty to the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities or affairs" for "activities."

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 105 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-701.06. Governing law.

The law of the District governs the internal affairs of a limited partnership and the liability of a partner for the debts, obligations, or other liabilities of a limited partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 106 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-701.07. Effect of partnership agreement; nonwaivable provisions.

(a) Except as otherwise provided in subsection (b) of this section, the

partnership agreement shall govern relations among the partners and between the partners and the partnership. To the extent the partnership agreement does not otherwise provide, this chapter shall govern relations among the partners and between the partners and the partnership.

(b) A partnership agreement shall not:

(1) Vary a limited partnership's power under § 29-701.05 to sue, be sued, and defend in its own name;

(2) Vary the law applicable to a limited partnership under § 29-701.06;

(3) Vary the requirements of § 29-702.04;

(4) Vary the information required under § 29-701.10 or unreasonably restrict the right to information under § 29-703.04 or § 29-704.07, but the partnership agreement may impose reasonable restrictions on the availability and use of information obtained under those sections and may define appropriate remedies, including liquidated damages, for a breach of any reasonable restriction on use;

(5) Eliminate the duty of loyalty under § 29-704.08, but the partnership agreement may:

(A) Identify specific types or categories of activities that do not violate the duty of loyalty, if not manifestly unreasonable; and

(B) Specify the number or percentage of partners which may authorize or ratify, after full disclosure to all partners of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty;

(6) Relieve or exonerate a person from liability for conduct involving bad faith, willful misconduct, or recklessness;

(7) Eliminate the contractual obligation of good faith and fair dealing under §§ 29-703.05(b) and 29-704.08(d), but the partnership agreement may prescribe the standards by which the performance of the obligation is to be measured, if the standards are not manifestly unreasonable;

(8) Vary the power of a person to dissociate as a general partner under § 29-706.04(a), except to require that the notice under § 29-706.03(1) be in a record;

(9) Vary the power of a court to decree dissolution in the circumstances specified in § 29-708.02;

(10) Vary the requirement to wind up the partnership's activities and affairs as specified in § 29-708.03;

(11) Unreasonably restrict the right of a partner to maintain an action under subchapter IX of this chapter;

(12) Restrict the right of a partner:

(A) Under § 29-710.06(a) to approve a merger; or

(B) Under Chapter 2 of this title to approve a merger, interest exchange, conversion, or domestication;

(13) Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of the law;

(14) Restrict rights under this chapter of a person other than a partner or a transferee;

(15) Vary the right of a general partner under § 29-704.06(b)(2) to consent to an amendment to the certificate of limited partnership which

deletes a statement that the limited partnership is a limited liability limited partnership;

(16) Vary the provisions of § 29-709.06, except that the partnership agreement may provide that the partnership may not have a special litigation committee;

(17) Vary any requirement, procedure, or other provision of this title pertaining to:

(A) Registered agents; or

(B) The Mayor, including provisions pertaining to records authorized or required to be delivered to the Mayor for filing under this title.

(c) Subject to subsection (b) of this section, but without limiting other terms that may be included in a partnership agreement, the following rules apply:

(1) The partnership agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

(2) If not manifestly unreasonable, the partnership agreement may:

(A) Restrict or eliminate aspects of the duty of loyalty stated in § 29-704.08(b);

(B) Identify specific types or categories of activities and affairs that do not violate the duty of loyalty;

(C) Alter the duty of care, but may not authorize willful or intentional misconduct or knowing violation of law; and

(D) Alter or eliminate any other fiduciary duty.

(d) The court shall decide as a matter of law any claim made under subsection (b)(7) or (c)(2) of this section that a term of a partnership agreement is manifestly unreasonable. The court:

(1) Shall make its determination as of the time the challenged term became part of the partnership agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes, activities, and affairs of the limited partnership, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02, § 29-701.09, § 29-702.01, and § 29-704.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (b); and added (c) and (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 110 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-701.08. Partnership agreement; effect on limited partnership and person becoming partner; preformation agreement.

(a) A limited partnership is bound by and may enforce the partnership agreement, whether or not the partnership has itself manifested assent to the partnership agreement.

(b) A person that becomes a partner of a limited partnership is deemed to assent to the partnership agreement.

(c) Two or more persons intending to become the initial partners of a limited partnership may make an agreement providing that upon the formation of the partnership the agreement will become the partnership agreement.

(Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(G), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Section 2(g)(2)(F) of D.C.

Law 19-210 redesignated former § 20-701.08 as § 29-701.10.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-701.09. Partnership agreement; effect on third parties and relationship to records effective on behalf of limited partnership.

(a) A partnership agreement may specify that its amendment requires the approval of a person that is not a party to the agreement or the satisfaction of a condition. An amendment is ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited partnership and its partners to a person in the person's capacity as a transferee or person dissociated as a partner are governed by the partnership agreement. Subject only to a court order issued under § 29-707.03(b)(2) to effectuate a charging order, an amendment to the partnership agreement made after a person becomes a transferee or is dissociated as a partner:

(1) Is effective with regard to any debt, obligation, or other liability of the limited partnership or its partners to the person in the person's capacity as a transferee or person dissociated as a partner; and

(2) Is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a partner.

(c) If a record delivered by a limited partnership to the Mayor for filing becomes effective and contains a provision that would be ineffective under § 29-701.07(b) or (c)(2) if contained in the partnership agreement, the provision is ineffective in the record.

(d) Subject to subsection (c) of this section, if a record delivered by a limited partnership to the Mayor for filing becomes effective and conflicts with a provision of the partnership agreement:

(1) The agreement prevails as to partners, persons dissociated as partners, and transferees; and

(2) The record prevails as to other persons to the extent they reasonably rely on the record.

(Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-701.02.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Section 2(g)(2)(F) of D.C. Law 19-210 redesignated former § 20-701.09 as § 29-701.11.

§ 29-701.10. Required information.

A limited partnership shall maintain at its principal office the following information:

(1) A current list in a record showing the full name and last known street and mailing address of each partner, separately identifying the general partners, in alphabetical order, and the limited partners, in alphabetical order;

(2) A copy of the initial certificate of limited partnership and all amendments to and restatements of the certificate, together with signed copies of any powers of attorney under which any certificate, amendment, or restatement has been signed;

(3) A copy of any articles of merger filed under subchapter X of this chapter and of any statement of merger, interest exchange, conversion, or domestication filed under Chapter 2 of this title;

(4) A copy of the limited partnership's federal, state, and local income tax returns and reports, if any, for the 3 most recent years;

(5) A copy of any partnership agreement made in a record and any amendment made in a record to any partnership agreement;

(6) A copy of any financial statement of the limited partnership for the 3 most recent years;

(7) A copy of the 3 most recent biennial reports delivered by the limited partnership to the Mayor pursuant to § 29-102.11;

(8) A copy of any record made by the limited partnership during the past 3 years of any consent given by or vote taken of any partner pursuant to this chapter or the partnership agreement; and

(9) Unless contained in a partnership agreement made in a record, a record stating:

(A) A description of the agreed value of contributions other than money made and agreed to be contributed by each partner;

(B) The times at which, or events on the happening of which, any additional contributions agreed to be made by each partner are to be made;

(C) For any person that is both a general partner and a limited partner, a specification of what transferable interest the person owns in each capacity; and

(D) Any events upon the happening of which the limited partnership is to be dissolved and its activities or affairs wound up.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, §§ 2(g)(2)(F), 2(g)(2)(H), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 29-701.08 as § 29-701.10; and substituted “A description of the agreed value of contributions other than money made” for “The amount of cash, and a description and statement of the agreed value of the other benefits, contributed” in (9)(A); and substituted “activities or affairs” for “activities” in (9)(D).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 111 of the Uniform Limited Partnership Act (2001 Act).

Section 2(g)(2)(F) of D.C. Law 19-210 redesignated former § 20-701.10 as § 29-701.12.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-701.11. Business transactions of partner with partnership.

A partner may lend money to and do other business with the limited partnership and has the same rights and obligations with respect to the loan or other transaction as a person that is not a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(F), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 29-701.09 as § 29-701.11.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 112 of the Uniform Limited Partnership Act (2001 Act).

Section 2(g)(2)(F) of D.C. Law 19-210 redesignated former § 20-701.11 as § 29-701.13.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Liability, generally.

Where at time sole general partner gave up his salary and turned over immediate day-to-day responsibility for management of partnership property to others, partnership was in financial straits and limited partners conferred among themselves and with managers of day-to-day operations in attempt to salvage enterprise and continue operations, actions of limited partners did not constitute participation in

normal day-to-day business within meaning of partnership agreement that general partner would manage day-to-day affairs; thus, limited partners had not taken part in control of business within meaning of statute making limited partners who take part in control liable as general partners. D.C. Code § 41-407. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

§ 29-701.12. Dual capacity.

A person may be both a general partner and a limited partner. A person that is both a general and limited partner shall have the rights, powers, duties, and obligations provided by this chapter and the partnership agreement in each of those capacities. When the person acts as a general partner, the person shall be subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for general partners. When the person acts as a limited partner, the person shall be subject to the obligations, duties, and restrictions under this chapter and the partnership agreement for limited partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(F), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 29-701.10 as § 29-701.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 113 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-701.13. Consent and proxies of partners.

Action requiring the consent of partners under this chapter may be taken without a meeting, and a partner may appoint a proxy to consent or otherwise act for the partner by signing an appointment record, either personally or by the partner's attorney in fact.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(2)(F), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 redesignated former § 29-701.11 as § 29-701.13.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 118 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter II. Formation; Certificate of Limited Partnership and Other Filings.

§ 29-702.01. Formation of limited partnership; certificate of limited partnership.

(a) In order for a limited partnership to be formed, a certificate of limited partnership shall be delivered to the Mayor for filing. The certificate shall state:

- (1) The name of the limited partnership, which shall comply with §§ 29-103.01 and 29-103.02(d);
- (2) The information required by § 29-104.04;
- (3) The name and the street and mailing address of each general partner and the limited partnership's principal office;
- (4) Whether the limited partnership is a limited liability limited partnership; and

(5) Any additional information required by subchapter X of this chapter.

(b) A certificate of limited partnership may also contain any other matters but may not vary or otherwise affect the provisions specified in § 29-701.07(b) in a manner inconsistent with that section.

(c) If there has been substantial compliance with subsection (a) of this

section, subject to subchapter II of Chapter 1 of this title, a limited partnership is formed when:

- (1) The certificate of limited partnership has become effective;
- (2) At least 2 persons have become partners;
- (3) At least one person has become a general partner; and
- (4) At least one person has become a limited partner.

(d) Subject to subsection (b) of this section, if any provision of a partnership agreement is inconsistent with the filed certificate of limited partnership, or with a filed statement of dissociation, termination, or change, or with filed articles of merger, or with a statement of merger, interest exchange, conversion, or domestication filed under Chapter 2 of this title:

- (1) The partnership agreement shall prevail as to partners and transferees; and
- (2) The filed document shall prevail as to persons, other than partners and transferees, that reasonably rely on the filed record to their detriment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(3)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.06, § 29-701.02, and § 29-711.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “general partner and the limited partnership’s principal office” for “general partner” in (a)(3); and rewrote (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 201 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Insurance, generally.
Necessity of certificate.
Questions of law and fact.
Review.

Insurance, generally.

Title insurer did not owe duty to advise vendor that recording limited partnership certificates was required before policy would issue; vendor’s previous policy with same insurer did not entitle vendors to notice of what insurer would require in regard to future policies and vendors were not third-party beneficiaries of contract to insure purchasers’ title. *Aronoff v. Lenkin Co.*, 618 A.2d 669, 1992 D.C. App. LEXIS 339 (1992).

Issuance of previous policy insuring limited partnership’s title to property was not misrepresentation which estopped insurer from denying insurability during later sale on grounds that recorded limited partnership certificate was required for title policy to be issued to

purchasers, and, thus, provided no basis for misrepresentation or estoppel claims by vendor. *Aronoff v. Lenkin Co.*, 618 A.2d 669, 1992 D.C. App. LEXIS 339 (1992).

Necessity of certificate.

Filing of certificate is crucial statutory step to forming limited partnership. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Agreement to be bound as partnership is not absolutely dependent upon execution of certificate of partnership; that certificate is not partnership agreement itself but rather document which must be recorded in order to secure uncontestable limited liability. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Questions of law and fact.

Whether assurances from vendor that recording of limited partnership certificates would take place on day following settlement met “reasonable satisfaction” standard of con-

tract for purchase and sale of limited partnership was mixed question of law and fact to be decided by trial court on remand. *Aronoff v. Lenkin Co.*, 618 A.2d 669, 1992 D.C. App. LEXIS 339 (1992).

Review.

Whether purchasers contributed materially to vendor's failure to record limited partnership certificates and vendor's inability to tender

insurable title was question to be resolved on remand in suit alleging that vendors drew down line of credit in violation of contract for purchase and sale of limited partnership which owned real property; conflicting testimony was presented concerning whether failure to record partnership certificates was substantial challenge to validity of title. *Aronoff v. Lenkin Co.*, 618 A.2d 669, 1992 D.C. App. LEXIS 339 (1992).

§ 29-702.02. Amendment or restatement of certificate.

(a) To amend its certificate of limited partnership, a limited partnership shall deliver to the Mayor for filing an amendment stating:

- (1) The name of the limited partnership;
- (2) The date of filing of its initial certificate; and
- (3) The changes the amendment makes to the certificate as most recently amended or restated.

(b) A limited partnership shall promptly deliver to the Mayor for filing an amendment to a certificate of limited partnership to reflect the:

- (1) Admission of a new general partner;
- (2) Dissociation of a person as a general partner; or
- (3) Appointment of a person to wind up the limited partnership's activities or affairs under § 29-708.03(c) or (d).

(c) A general partner that knows that any information in a filed certificate of limited partnership was inaccurate when the certificate was filed or has become inaccurate due to changed circumstances shall promptly:

- (1) Cause the certificate to be amended; or
- (2) If appropriate, deliver to the Mayor for filing a statement of correction pursuant to § 29-102.05 or § 29-104.07.

(d) A certificate of limited partnership may be amended at any time for any other proper purpose as determined by the limited partnership.

(e) A restated certificate of limited partnership may be delivered to the Mayor for filing in the same manner as an amendment.

(f) Subject to § 29-102.03, an amendment or restated certificate shall be effective when filed by the Mayor.

(g) A certificate of limited partnership may also be amended by filing articles of merger under subchapter X of this chapter or a statement of merger, interest exchange, conversion, or domestication under Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(3)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-702.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities or affairs" for "activities" in (b)(3); and substituted "inaccurate" for "false" in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 202 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-702.03. Statement of termination.

A dissolved limited partnership that has completed winding up may deliver to the Mayor for filing a statement of termination that states:

- (1) The name of the limited partnership;
- (2) The date of filing of its initial certificate of limited partnership; and
- (3) Any other information as determined by the general partners filing the statement or by a person appointed pursuant to § 29-708.03(c) or (d).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-708.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 203 of the Uniform Limited Partnership Act (2001 Act).

§ 29-702.04. Signing of records.

(a) Each record delivered to the Mayor for filing pursuant to this chapter shall be signed in the following manner:

(1) An initial certificate of limited partnership shall be signed by all general partners listed in the certificate.

(2) An amendment adding or deleting a statement that the limited partnership is a limited liability limited partnership shall be signed by all general partners listed in the certificate.

(3) An amendment designating as general partner a person admitted under § 29-708.01(3)(B) following the dissociation of a limited partnership's last general partner shall be signed by that person.

(4) An amendment required by § 29-708.03(c) following the appointment of a person to wind up the dissolved limited partnership's activities or affairs shall be signed by that person.

(5) Any other amendment shall be signed by:

(A) At least one general partner listed in the certificate;

(B) Each other person designated in the amendment as a new general partner; and

(C) Each person that the amendment indicates has dissociated as a general partner, unless:

(i) The person is deceased or a guardian or general conservator has been appointed for the person and the amendment so states; or

(ii) The person has previously delivered to the Mayor for filing a statement of dissociation.

(6) A restated certificate of limited partnership shall be signed by at least one general partner listed in the certificate, and, to the extent the restated certificate effects a change under any other paragraph of this subsection, the certificate shall be signed in a manner that satisfies that paragraph.

(7) A statement of termination shall be signed by all general partners listed in the certificate or, if the certificate of a dissolved limited partnership lists no general partners, by the person appointed pursuant to § 29-708.03(c) or (d) to wind up the dissolved limited partnership's activities or affairs.

(8) Articles of merger shall be signed as provided in § 29-710.04(a).

(9) Any other record delivered on behalf of a limited partnership to the Mayor for filing shall be signed by at least one general partner listed in the certificate.

(10) A statement by a person pursuant to § 29-706.05(a)(4) stating that the person has dissociated as a general partner shall be signed by that person.

(11) A statement of withdrawal by a person pursuant to § 29-703.06 shall be signed by that person.

(12) A record delivered on behalf of a foreign limited partnership to the Mayor for filing shall be signed by at least one general partner of the foreign limited partnership.

(13) Any other record delivered on behalf of any person to the Mayor for filing shall be signed by that person.

(b) Any person may sign by an attorney in fact any record to be filed pursuant to this chapter.

(c) Each record delivered to the Mayor for filing pursuant to Chapter 2 of this title shall be signed by each general partner listed in the certificate of limited partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(3)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities or affairs” for “activities” in (a)(4) and (a)(7).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 204 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-702.05. Signing and filing pursuant to judicial order.

(a) If a person required by this chapter to sign a record or deliver a record to the Mayor for filing does not do so, any other person that is aggrieved may petition the Superior Court to order:

- (1) The person to sign the record;
- (2) Deliver the record to the Mayor for filing; or
- (3) The Mayor to file the record unsigned.

(b) If the person aggrieved under subsection (a) of this section is not the limited partnership or foreign limited partnership to which the record pertains, the aggrieved person shall make the limited partnership or foreign limited partnership a party to the action. A person aggrieved under subsection (a) of this section may seek the remedies provided in subsection (a) of this section in the same action in combination or in the alternative.

(c) A record filed unsigned pursuant to this section shall be effective without being signed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-702.06.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 205 of the Uniform Limited Partnership Act (2001 Act).

§ 29-702.06. Liability for inaccurate information in filed record.

(a) If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) A general partner that has notice that the information was inaccurate when the record was filed or has become inaccurate because of changed circumstances, if the general partner has notice for a reasonably sufficient time before the information is relied upon to enable the general partner to effect an amendment under § 29-702.02, file a petition pursuant to § 29-702.05, or deliver to the Mayor for filing a statement of change pursuant to § 29-104.07 or a statement of correction pursuant to § 29-102.05.

(b) Signing a record authorized or required to be filed under this chapter shall constitute an affirmation under the penalties of making false statements that the facts stated in the record are true.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(3)(D), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "inaccurate" for "false" in (a) and in the section heading; and substituted "making false statements" for "perjury" in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 208 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter III. Limited Partners.

§ 29-703.01. Becoming limited partner.

(a) A person becomes a limited partner:

(1) Upon formation as provided in the partnership agreement; or

(2) After formation, a person becomes a limited partner:

(A) As provided in the partnership agreement;

(B) As the result of a merger under subchapter X of this chapter or a transaction under Chapter 2 of this title;

(C) With the consent of all the partners; or

(D) As provided in § 29-708.01(4).

(b) A person may become a limited partner without:

(1) Acquiring a transferable interest; or

(2) Making or being obligated to make a contribution to the limited partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 301 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Certificate of formation.

Liability.

Membership, generally.

Certificate of formation.

Filing of certificate is crucial statutory step to forming limited partnership. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Agreement to be bound as partnership is not absolutely dependent upon execution of certificate of partnership; that certificate is not partnership agreement itself but rather document which must be recorded in order to secure uncontestable limited liability. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Liability.

Under District of Columbia law, letter of agreement signed by individual as president of corporation, for limited partnership, established that liability for breach ran to limited partnership and to corporation, which was limited partnership's general partner. *D.C. Code 1981, §§ 41-112, 41-114, 41-443. Shalom Baranes Assocs., P.C. v. 900 F St. Corp.*, 940 F. Supp. 1, 1996 U.S. Dist. LEXIS 14782 (1996).

Partner who signed contract on behalf of purported limited partnership, using partnership trade name that included the words "limited partnership," was personally liable for partnership's contractual debt, as limited partnership was never formed. *Corto v. National Scenery Studios*, 705 A.2d 615, 1997 D.C. App. LEXIS 232 (1997).

Partner who claimed she signed contract on behalf of general partnership, using partnership trade name that included the words "limited partnership," was personally liable for partnership's contractual debt, as partner did not disclose that she was signing contract on behalf of general partnership. *Corto v. National Scenery Studios*, 705 A.2d 615, 1997 D.C. App. LEXIS 232 (1997).

Membership, generally.

Under District of Columbia law, letter of agreement signed by individual as president of one corporation, for limited partnership, did not make individual or another corporation of which he was president parties to agreement, absent evidence that president misrepresented his agency. *Shalom Baranes Assocs., P.C. v. 900 F St. Corp.*, 940 F. Supp. 1, 1996 U.S. Dist. LEXIS 14782 (1996).

§ 29-703.02. No agency power of limited partner as limited partner.

(a) A limited partner is not an agent of a limited partnership solely by reason of being a limited partner.

(b) A person's status as a limited partner does not prevent or restrict the law, other than in this title, from imposing liability on a limited partnership because of the person's conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 302 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-703.03. No liability as limited partner for limited partnership obligations.

(a) A debt, obligation, or other liability of a limited partnership, whether arising in contract, tort, or otherwise, is not attributable to a limited partner. A limited partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for an a debt, obligation, or other liability of the limited partnership solely by reason of being a limited partner, even if the limited partner participates in the management and control of the limited partnership.

(b) The failure of a limited partnership to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a limited partner for a debt, obligation, or other liability of the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(C), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 303 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Contribution of capital.
Control of business.
General partners.
Personal liability.
Putative partners, generally.
Renunciation of profits.

Contribution of capital.

Contribution of capital is important, if not indispensable, concrete step to create clear establishment of limited partner status to justify imposition of liability on that basis alone; absent such contribution of capital or at least entry into enforceable agreement to make such contribution, no liability should accrue based solely upon one's status as putative limited partner. D.C. Code 1981, §§ 41-211, 41-217(a). *Reiman v. International Hospitality Group,*

Ltd., 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Control of business.

Limited partners who did not take control of business could not be held liable under District of Columbia law for limited partnership's alleged breach of lease for railroad facility. D.C. Code 1981, §§ 41-207, 41-226. *National R. Passenger Asso. v. Union Station Associates*, 643 F. Supp. 192, 1986 U.S. Dist. LEXIS 22190 (1986).

Where at time sole general partner gave up his salary and turned over immediate day-to-day responsibility for management of partnership property to others, partnership was in financial straits and limited partners conferred among themselves and with managers of day-to-day operations in attempt to salvage enterprise and continue operations, actions of lim-

ited partners did not constitute participation in normal day-to-day business within meaning of partnership agreement that general partner would manage day-to-day affairs; thus, limited partners had not taken part in control of business within meaning of statute making limited partners who take part in control liable as general partners. D.C. Code § 41-407. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

Limited partnership was not mere continuation of corporation from which it purchased assets, so that partnership and limited partner, who allegedly exercised control over partnership, were not liable for corporation's debts under contract for advertising and marketing services for newspaper, even though corporation was general partner and both corporation and partnership were involved in development of newspaper; corporation continued to exist as separate entity after formation of partnership, partnership was formed for separate purpose, there was no evidence of inadequate consideration, and corporation took steps to meet its obligations under contract after it transferred assets to partnership in that it retained some assets and anticipated management fees and share of profits from partnership. *Bingham v. Goldberg, Marchesano, Kohlman, Inc.*, 637 A.2d 81, 1994 D.C. App. LEXIS 14 (1994).

General partners.

Under District of Columbia law, letter of agreement signed by individual as president of corporation, for limited partnership, established that liability for breach ran to limited partnership and to corporation, which was limited partnership's general partner. D.C. Code 1981, §§ 41-112, 41-114, 41-443. *Shalom Baranes Assocs., P.C. v. 900 F St. Corp.*, 940 F. Supp. 1, 1996 U.S. Dist. LEXIS 14782 (1996).

Personal liability.

Partner who signed contract on behalf of purported limited partnership, using partnership trade name that included the words "limited partnership," was personally liable for partnership's contractual debt, as limited partnership was never formed. *Corto v. National Scenery Studios*, 705 A.2d 615, 1997 D.C. App. LEXIS 232 (1997).

Partner who claimed she signed contract on behalf of general partnership, using partnership trade name that included the words "limited partnership," was personally liable for partnership's contractual debt, as partner did not disclose that she was signing contract on behalf of general partnership. *Corto v. National*

Scenery Studios, 705 A.2d 615, 1997 D.C. App. LEXIS 232 (1997).

Putative partners, generally.

Time periods are relevant in determining whether liability should accrue based upon one's status as putative limited partner; focus cannot necessarily be confined to date of execution of contract. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Person's liability as putative limited partner can relate only to obligations of specific limited partnership of which he is putatively a member and not any other partnership, even if it bears same name; however, obligations, like assets, may be transferred from entity to entity, perhaps with express assumption. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Defective creation of limited partnership which assumes or receives by assignment, or otherwise, preexisting benefits and burdens may create liability for putative limited partner. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Liability flowing solely from status as putative limited partner is not to be lightly imposed; one cannot be subject to liability in that capacity alone, apart from any representations or appearances relied upon by creditor, until and unless one has taken steps to establish himself as limited partner and has clearly bound himself in that capacity and obligation at issue is clearly of that particular partnership. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Putative limited partner is not absolved from any potential liability simply because she intends only to be limited partner. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Renunciation of profits.

Renunciation of future, not past, profits of business by putative limited partner promptly after discovery that formation of limited partnership is defective will prevent any general partner liability from being imposed upon putative limited partner; however, if renunciation is not effectuated and no other section of Uniform Limited Partnership Act (ULPA) provides protection, putative limited partner faces liability in individual capacity for debts of partnership. D.C. Code 1981, § 41-211 (repealed). *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

§ 29-703.04. Right of limited partner and former limited partner to information.

(a) On 10 days' demand, made in a record received by the limited partnership, a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office. The limited partner need not have any particular purpose for seeking the information.

(b) During regular business hours and at a reasonable location specified by the limited partnership, a limited partner may obtain from the limited partnership and inspect and copy true and full information regarding the state of the activities and affairs and financial condition of the limited partnership and other information regarding the activities and affairs of the limited partnership as is just and reasonable if:

(1) The limited partner seeks the information for a purpose reasonably related to the partner's interest as a limited partner;

(2) The limited partner makes a demand in a record received by the limited partnership, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(3) The information sought is directly connected to the limited partner's purpose.

(c) Within 10 days after receiving a demand pursuant to subsection (b) of this section, the limited partnership in a record shall inform the limited partner that made the demand:

(1) What information the limited partnership will provide in response to the demand;

(2) When and where the limited partnership will provide the information; and

(3) If the limited partnership declines to provide any demanded information, the limited partnership's reasons for declining.

(d) Subject to subsection (f) of this section, a person dissociated as a limited partner may inspect and copy required information during regular business hours in the limited partnership's principal office if:

(1) The information pertains to the period during which the person was a limited partner;

(2) The person seeks the information in good faith; and

(3) The person meets the requirements of subsection (b) of this section.

(e) The limited partnership shall respond to a demand made pursuant to subsection (d) of this section in the same manner as provided in subsection (c) of this section.

(f) If a limited partner dies, § 29-707.04 shall apply.

(g) A limited partnership may impose reasonable restrictions on the use of information obtained under this section. In a dispute concerning the reasonableness of a restriction under this subsection, the limited partnership shall have the burden of proving reasonableness.

(h) A limited partnership may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(i) Whenever this chapter or a partnership agreement provides for a limited partner to give or withhold consent to a matter, before the consent is given or withheld, the limited partnership shall, without demand, provide the limited partner with all information material to the limited partner's decision that the limited partnership knows.

(j) A limited partner or person dissociated as a limited partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (g) of this section or by the partnership agreement shall apply both to the attorney or other agent and to the limited partner or person dissociated as a limited partner.

(k) The rights stated in this section shall not extend to a person as transferee, but may be exercised by the legal representative of an individual under legal disability who is a limited partner or person dissociated as a limited partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-704.07, § 29-707.04, and § 29-709.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” throughout (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 304 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-703.05. Limited duties of limited partners.

(a) A limited partner shall not have any fiduciary duty to the limited partnership or to any other partner solely by reason of being a limited partner.

(b) A limited partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(c) A limited partner does not violate a duty or obligation under this chapter or under the partnership agreement merely because the limited partner's conduct furthers the limited partner's own interest.

(d) If a limited partner enters into a transaction with a limited partnership, the limited partner's rights and obligations arising from the transaction are the same as those of a person that is not a partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-706.01, and § 29-706.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “does” for “shall” in (c); and added (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 305 of the Uniform Limited Partnership Act (2001 Act).
Application of Law 19-210: Section 7 of D.C.

Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-703.06. Person erroneously believing self to be limited partner.

(a) Except as otherwise provided in subsection (b) of this section, a person that makes an investment in a business enterprise and erroneously but in good faith believes that the person has become a limited partner in the enterprise shall not be liable for the enterprise's obligations by reason of making the investment, receiving distributions from the enterprise, or exercising any rights of or appropriate to a limited partner, if, on ascertaining the mistake, the person:

(1) Causes an appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the Mayor for filing; or

(2) Withdraws from future participation as an owner in the enterprise by signing and delivering to the Mayor for filing a statement of withdrawal under this section.

(b) A person that makes an investment described in subsection (a) of this section shall be liable to the same extent as a general partner to any third party that enters into a transaction with the enterprise, believing in good faith that the person is a general partner, before the Mayor files a statement of withdrawal, certificate of limited partnership, amendment, or statement of correction to show that the person is not a general partner.

(c) If a person makes a diligent effort in good faith to comply with subsection (a)(1) of this section and is unable to cause the appropriate certificate of limited partnership, amendment, or statement of correction to be signed and delivered to the Mayor for filing, the person shall have the right to withdraw from the enterprise pursuant to subsection (a)(2) of this section even if the withdrawal would otherwise breach an agreement with others that are or have agreed to become co-owners of the enterprise.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-702.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 306 of the Uniform Limited Partnership Act (2001 Act).

CASE NOTES

ANALYSIS

In general.

Intent.

Presumptions and burden of proof.

Renunciation of profits.

Scope of liability.

Time periods.

In general.

Liability flowing solely from status as puta-

tive limited partner is not to be lightly imposed; one cannot be subject to liability in that capacity alone, apart from any representations or appearances relied upon by creditor, until and unless one has taken steps to establish himself as limited partner and has clearly bound himself in that capacity and obligation at issue is clearly of that particular partnership. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Any individual associated with purported limited partnership where proper formalities have not been complied with is not necessarily as matter of law liable as general partner. D.C. Code 1981, § 41-211 (repealed). *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Intent.

Putative limited partner is not absolved from any potential liability simply because she intends only to be limited partner. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Presumptions and burden of proof.

Burden of proof was on real estate broker to establish basis for liability of putative limited partner for real estate commission. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Renunciation of profits.

Renunciation of future, not past, profits of business by putative limited partner promptly after discovery that formation of limited partnership is defective will prevent any general partner liability from being imposed upon putative limited partner; however, if renunciation is not effectuated and no other section of Uniform Limited Partnership Act (ULPA) provides protection, putative limited partner faces liabil-

ity in individual capacity for debts of partnership. D.C. Code 1981, § 41-211 (repealed). *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Scope of liability.

Person's liability as putative limited partner can relate only to obligations of specific limited partnership of which he is putatively a member and not any other partnership, even if it bears same name; however, obligations, like assets, may be transferred from entity to entity, perhaps with express assumption. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Defective creation of limited partnership which assumes or receives by assignment, or otherwise, preexisting benefits and burdens may create liability for putative limited partner. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Time periods.

Time periods are relevant in determining whether liability should accrue based upon one's status as putative limited partner; focus cannot necessarily be confined to date of execution of contract. *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

Subchapter IV. General Partners.

§ 29-704.01. Becoming general partner.

(a) A person becomes a general partner:

(1) Upon formation of a limited partnership, as agreed among the persons that are to be the initial partners; and

(2) After formation:

(A) As provided in the partnership agreement;

(B) Under § 29-708.01(3)(B) following the dissociation of a limited partnership's last general partner;

(C) As the result of a merger under subchapter X of this chapter or a transaction under Chapter 2 of this title; or

(D) With the consent of all the partners.

(3) As the result of a merger under subchapter X of this chapter or a transaction under Chapter 2 of this title; or

(4) With the consent of all the partners.

(b) A person may become a general partner without:

(1) Acquiring a transferable interest; or

(2) Making or being obligated to make a contribution to the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the (a) designation; rewrote (a)(1) and (a)(2); and added (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 401 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-704.02. General partner agent of limited partnership.

(a) Each general partner shall be an agent of the limited partnership for the purposes of its activities and affairs.

(b) An act of a general partner, including the signing of a record in the partnership's name, for apparently carrying on in the ordinary course the limited partnership's activities or affairs or activities or affairs of the kind carried on by the limited partnership shall bind the limited partnership, unless the general partner did not have authority to act for the limited partnership in the particular matter and the person with which the general partner was dealing knew, had received a notification, or had notice under § 29-701.03(d) that the general partner lacked authority.

(c) An act of a general partner which is not apparently for carrying on in the ordinary course the limited partnership's activities or affairs or activities or affairs of the kind carried on by the limited partnership shall bind the limited partnership only if the act was actually authorized by all the other partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-706.06, § 29-708.04, and § 29-710.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a); and substituted "activities or affairs or activities or affairs" for "activities or activities" in (b) and (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 402 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Business activities, generally.
Duty owed limited partners.
Indemnification.
Insurance.
Questions of law and fact.
Remedies, generally.
Tax liability, generally.
Temporary partners.

Business activities, generally.

Transfer of keyman life policy by president of

corporate general partner of Chapter 7 debtor limited partnership by substituting president's wife for limited partnership as beneficiary of policy without consideration was not within ordinary course of partnership's business, where wife was not involved in partnership and transfer was in no way necessary, proper or advisable to operation of partnership business. *Federal Kemper Life Assurance Co. v. Wolensky's L.P.* (In re Wolensky's Ltd. Partnership), 163 B.R. 629, 1994 Bankr. LEXIS 62 (1994).

Neither partnership agreement nor District

of Columbia law provided authority for president of corporation which was general partner in limited partnership to take actions that were not for purpose of carrying on partnership's normal business; thus, if president's change in beneficiary of partnership's policy on president's life was not related to ordinary business of partnership, act of transferring policy and changing beneficiary was ultra vires and ineffective to deprive partnership of its interest in policy. D.C. Code 1981, §§ 41-108(b), 41-443(a). *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 629, 1994 Bankr. LEXIS 62 (1994).

Duty owed limited partners.

Despite fact that partnership agreement granted president of corporate general partner broad discretion in managing partnership business, president still owed limited partners fiduciary duty that existed concurrently with obligation set forth in partnership agreement. *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 629, 1994 Bankr. LEXIS 62 (1994).

Indemnification.

Where even if agreement between limited and general partners entitling limited partners to indemnification from general partner or from other limited partners on theory that limited partners became general partners when general partner gave up his salary and duties as manager of partnership properties were clear and unambiguous, agreement could not be enforced against partnership where limited partners who signed agreement failed to bring it to attention of other partners and indemnification was contrary to spirit of partnership agreement. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

Insurance.

Even if president of corporate general partner of Chapter 7 debtor limited partnership believed that he was free to treat keyman life policy obtained by partnership on president's life as his own, that belief did not equate to finding that president had authorization to treat policy as his own at any time, and thus, president's substituting his wife for limited partnership as beneficiary of policy was not authorized under partnership agreement. *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 629, 1994 Bankr. LEXIS 62 (1994).

Change of ownership and beneficiary of keyman life policy purchased by Chapter 7 debtor limited partnership on life of president of corporate general partner as result of president's substituting his wife's name for that of debtor as beneficiary constituted transfer of partner-

ship property not in ordinary course of partnership business and was ultra vires and was ineffective to deprive debtor of its interest in policy; thus, debtor was proper beneficiary of policy and debtor would have been entitled upon president's death to proceeds of policy and since president died before debtor's bankruptcy petition was filed, proceeds would have become property of debtor's bankruptcy estate. *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 629, 1994 Bankr. LEXIS 62 (1994).

Life policy purchased at expense and for benefit of Chapter 7 debtor limited partnership on life of president of corporate general partner was partnership property, and it was policy as whole that was asset of limited partnership including right to exercise any of the provisions of the policy including one allowing change in beneficiary; thus, president of general partner could only exercise right to change beneficiary for benefit of partnership and to do otherwise would be breach of his fiduciary duty. D.C. Code 1981, §§ 41-107(b), 41-124(a), (b)(1). *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 629, 1994 Bankr. LEXIS 62 (1994).

Questions of law and fact.

Genuine issues of material fact as to whether change of beneficiary of keyman policy on life of president of corporate general partner of limited partnership which had purchased policy to protect partnership's creditors, without consideration, to president's wife was act effectuating partnership business so as to be authorized under partnership agreement and District of Columbia law precluded summary judgment in interpleader action brought by life insurer. D.C. Code 1981, §§ 41-108(b), 41-443(a). *Federal Kemper Life Assurance Co. v. Wolensky's L.P. (In re Wolensky's Ltd. Partnership)*, 163 B.R. 615, 1993 Bankr. LEXIS 2053 (1993).

Remedies, generally.

Where general partner, who had foregone his salary and turned over immediate day-to-day responsibility to others in regard to management of partnership property, still considered himself a general partner and recognized that written partnership agreement by its terms was a bona fide limited partnership, such partner could not hold his limited partners, who had allegedly taken over day-to-day general operations of business, to account as general partners. D.C. Code § 41-330. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

Remedy of general partner who faces interference from his limited partners is to dissolve the partnership; so long as the partnership continues, the general partner is in relationship of trust with his colleagues and may not

invoke provisions of Uniform Partnership Act, including provision to have limited partners declared general partners, to enlarge the liability of his limited partners. D.C. Code § 41-330. *Weil v. Diversified Properties*, 319 F. Supp. 778, 1970 U.S. Dist. LEXIS 9323 (1970).

Tax liability, generally.

Limited partnership general partner's exercise of repurchase options owned by limited partners did not constitute exercise of option on behalf of limited partners, and thus did not trigger limited partners' obligation to pay tax liability incurred by seller because of repurchase; options belonged to limited partners individually, rather than to partnership, and thus general partner's inherent power to deal with partnership property on behalf of limited partners was not at issue. *Nofziger Communications v. Birks*, 774 F. Supp. 662, 1991 U.S. Dist. LEXIS 14126 (1991), reversed by, remanded by 989 F.2d 1227, 300 U.S. App. D.C. 355, 1993 U.S. App. LEXIS 7604 (1993).

Temporary partners.

Individual who served temporarily as limited partnerships' general partner was not person-

ally liable for partnerships' debts to former managing partners, given overwhelming evidence that parties intended for originally selected general partner to replace individual upon becoming qualified to do business in District of Columbia, which occurred before debts arose. *Ross v. 1301 Conn. Ave. Assocs.*, 99 F.3d 444, 1996 U.S. App. LEXIS 29120 (C.A.D.C.1996).

Although fact that individual who agreed to serve temporarily as limited partnerships' general partner was listed as general partner on certificates of partnership even after temporary service ended could be significant with regard to his liability to third parties, it did not permit former managing partners, who were fully aware of terms of individual's temporary tenure, to hold individual liable for debts owed them by partnerships; former managing partners could not rely on partnership certificates to put themselves in same position as third-party creditors without such knowledge. D.C. Code 1981, § 41-115(a). *Ross v. 1301 Conn. Ave. Assocs.*, 99 F.3d 444, 1996 U.S. App. LEXIS 29120 (C.A.D.C.1996).

§ 29-704.03. Limited partnership liable for general partner's actionable conduct.

(a) A limited partnership shall be liable for loss or injury caused to a person, or for a penalty incurred, as a result of a wrongful act or omission, or other actionable conduct, of a general partner acting in the ordinary course of activities or affairs of the limited partnership or with authority of the limited partnership.

(b) If, in the course of the limited partnership's activities or affairs or while acting with authority of the limited partnership, a general partner receives or causes the limited partnership to receive money or property of a person not a partner, and the money or property is misapplied by a general partner, the limited partnership shall be liable for the loss.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(C), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities or affairs" for "activities" in (a) and (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 403 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-704.04. General partner's liability.

(a) Except as otherwise provided in subsections (b) and (c) of this section, all

general partners shall be liable jointly and severally for all debts, obligations, and other liabilities of the limited partnership unless otherwise agreed by the claimant or provided by law.

(b) A person that becomes a general partner of an existing limited partnership is not be personally liable for a debt, obligation, or other liability of a limited partnership incurred before the person became a general partner.

(c) A debt, obligation, or other liability of a limited partnership incurred while the limited partnership is a limited partnership, whether arising in contract tort, or otherwise, and that is incurred while the limited partnership is a limited liability partnership, is solely an obligation of the limited partnership. A general partner shall not be personally liable, directly or indirectly, by way of contribution or otherwise, for such debt, obligation, or other liability solely by reason of being or acting as a general partner. This subsection shall apply despite anything inconsistent in the partnership agreement that existed immediately before the consent required to become a limited liability limited partnership under § 29-704.06(b)(2).

(d) The failure of a limited liability limited partnership to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on a general partner of the limited liability limited partnership for a debt, obligation, or liability of the partnership.

(e) An amendment of a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership does not affect the limitation in this section on the liability of a general partner for a debt, obligation, or other liability of the limited partnership incurred before the amendment became effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02, § 29-704.05, § 29-706.07, § 29-708.06, § 29-708.07, § 29-708.08, and § 29-710.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 404 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-704.05. Actions by and against partnership and partners.

(a) To the extent not inconsistent with § 29-704.04, a general partner may be joined in an action against the limited partnership or named in a separate action.

(b) A judgment against a limited partnership shall not by itself be a judgment against a general partner. A judgment against a limited partnership shall not be satisfied from a general partner's assets unless there is also a judgment against the general partner.

(c) A judgment creditor of a general partner shall not levy execution against the assets of the general partner to satisfy a judgment based on a claim against the limited partnership, unless the partner is personally liable for the claim under § 29-704.04 and:

(1) A judgment based on the same claim has been obtained against the limited partnership and a writ of execution on the judgment has been returned unsatisfied in whole or in part;

(2) The limited partnership is a debtor in bankruptcy;

(3) The general partner has agreed that the creditor need not exhaust limited partnership assets;

(4) A court grants permission to the judgment creditor to levy execution against the assets of a general partner based on a finding that limited partnership assets subject to execution are clearly insufficient to satisfy the judgment, that exhaustion of limited partnership assets is excessively burdensome, or that the grant of permission is an appropriate exercise of the court's equitable powers; or

(5) Liability is imposed on the general partner by law or contract independent of the existence of the limited partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 405 of the Uniform Limited Partnership Act (2001 Act).

§ 29-704.06. Management rights of general partner.

(a) Each general partner shall have equal rights in the management and conduct of the limited partnership's activities and affairs. Except as expressly provided in this chapter, any matter relating to the activities and affairs of the limited partnership may be exclusively decided by the general partner or, if there is more than one general partner, by a majority of the general partners.

(b) The consent of each partner shall be necessary to:

(1) Amend the partnership agreement;

(2) Amend the certificate of limited partnership to add or, subject to § 29-710.06, delete a statement that the limited partnership is a limited liability limited partnership; and

(3) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the limited partnership's property, with or without the good will, other than in the usual and regular course of the limited partnership's activities.

(c) A limited partnership shall reimburse a general partner for payments made and indemnify a general partner for liabilities incurred by the general partner in the ordinary course of the activities of the partnership or for the preservation of its activities or property.

(d) A limited partnership shall reimburse a general partner for an advance to the limited partnership beyond the amount of capital the general partner agreed to contribute.

(e) A payment or advance made by a general partner which gives rise to an obligation of the limited partnership under subsection (c) or (d) of this section

shall constitute a loan to the limited partnership which accrues interest from the date of the payment or advance.

(f) A general partner shall not be entitled to remuneration for services performed for the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-704.04, and § 29-704.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” twice in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 406 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-704.07. Right of general partner and former general partner to information.

(a) A general partner, without having any particular purpose for seeking the information, may inspect and copy during regular business hours:

- (1) In the limited partnership’s principal office, required information; and
- (2) At a reasonable location specified by the limited partnership, any other records maintained by the limited partnership regarding the limited partnership’s activities and financial condition.

(b) Each general partner and the limited partnership shall furnish to a general partner:

- (1) Without demand, any information concerning the limited partnership’s activities and activities reasonably required for the proper exercise of the general partner’s rights and duties under the partnership agreement or this chapter; and

- (2) On demand, any other information concerning the limited partnership’s activities, except to the extent the demand or the information demanded is unreasonable or otherwise improper under the circumstances.

(c) Subject to subsection (e) of this section, on 10 days’ demand made in a record received by the limited partnership, a person dissociated as a general partner may have access to the information and records described in subsection (a) of this section at the location specified in subsection (a) of this section if:

- (1) The information or record pertains to the period during which the person was a general partner;

- (2) The person seeks the information or record in good faith; and

- (3) The person satisfies the requirements imposed on a limited partner by § 29-703.04(b).

(d) The limited partnership shall respond to a demand made pursuant to subsection (c) of this section in the same manner as provided in § 29-703.04(c).

(e) If a general partner dies, § 29-707.04 shall apply.

(f) The limited partnership may impose reasonable restrictions on the use of

information under this section. In any dispute concerning the reasonableness of a restriction under this subsection, the limited partnership shall have the burden of proving reasonableness.

(g) A limited partnership may charge a person dissociated as a general partner that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(h) A general partner or person dissociated as a general partner may exercise the rights under this section through an attorney or other agent. Any restriction imposed under subsection (f) or by the partnership agreement shall apply both to the attorney or other agent and to the general partner or person dissociated as a general partner.

(i) The rights under this section shall not extend to a person as transferee, but the rights under subsection (c) of this section of a person dissociated as a general may be exercised by the legal representative of an individual who dissociated as a general partner under § 29-706.03(7)(B) or (C).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-701.07 and § 29-709.06.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 407 of the Uniform Limited Partnership Act (2001 Act).

§ 29-704.08. General standards of general partner's conduct.

(a) The only fiduciary duties that a general partner shall have to the limited partnership and the other partners are the duties of loyalty and care under subsections (b) and (c) of this section.

(b) A general partner's duty of loyalty to the limited partnership and the other partners shall be limited to the following:

(1) To account to the limited partnership and hold as trustee for it any property, profit, or benefit derived by the general partner in the conduct and winding up of the limited partnership's activities or derived from a use by the general partner of limited partnership property, including the appropriation of a limited partnership opportunity;

(2) To refrain from dealing with the limited partnership in the conduct or winding up of the limited partnership's activities as or on behalf of a party having an interest adverse to the limited partnership; and

(3) To refrain from competing with the limited partnership in the conduct or winding up of the limited partnership's activities.

(c) A general partner's duty of care to the limited partnership and the other partners in the conduct and winding up of the limited partnership's activities shall be limited to refraining from engaging in grossly negligent or reckless conduct, intentional misconduct, or a knowing violation of law.

(d) A general partner shall discharge the duties to the partnership and the other partners under this chapter or under the partnership agreement and exercise any rights consistently with the obligation of good faith and fair dealing.

(e) A general partner shall not violate a duty or obligation under this chapter or under the partnership agreement merely because the general partner's conduct furthers the general partner's own interest.

(f) All the partners of a limited partnership may authorize or ratify, after full disclosure of all material facts, a specific act or transaction by a general partner that otherwise would violate the duty of loyalty.

(g) It is a defense to a claim under subsection (b)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited partnership.

(h) If, as permitted by subsection (f) of this section or the partnership agreement, a general partner enters into a transaction with the limited partnership which otherwise would be prohibited by subsection (b)(2) of this section, the general partner's rights and obligations arising from the transaction are the same as those of a person that is not a general partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-704.09, § 29-705.09, § 29-706.03, and § 29-706.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (f), (g), and (h).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 408 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-704.09. Reimbursement, indemnification, advancement, and insurance.

(a) A limited partnership shall reimburse a general partner for any payment made by the general partner in the course of the general partner's activities on behalf of the partnership, if the general partner complied with §§ 29-704.06, 29-704.08, and 29-705.09 in making the payment.

(b) A limited partnership shall indemnify and hold harmless a person with respect to any claim or demand against the person and any debt, obligation, or other liability incurred by the person by reason of the person's former or present capacity as a general partner, if the claim, demand, debt, obligation, or other liability does not arise from the person's breach of § 29-704.06, [§] 29-704.08, or [§] 29-705.09.

(c) In the ordinary course of its activities and affairs, a limited partnership may advance reasonable expenses, including attorney's fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person's former or present capacity as a general partner, if the person promises to repay the partnership if the person ultimately is determined not to be entitled to be indemnified under subsection (b) of this section.

(d) A limited partnership may purchase and maintain insurance on behalf of a general partner against liability asserted against or incurred by the general partner in that capacity or arising from that status even if, under § 29-

701.07(b)(6), the partnership agreement could not eliminate or limit the person's liability to the partnership for the conduct giving rise to the liability. (Mar. 5, 2013, D.C. Law 19-210, § 2(g)(4)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter V. Contributions and Distributions.

§ 29-705.01. Form of contribution.

A contribution of a partner may consist of property transferred, services performed, or another benefit provided to the partnership or an agreement to transfer property, perform services, or provide another benefit to the partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(6)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “property transferred, services performed, or another benefit provided to the partnership or an agreement to transfer property, perform services, or provide another benefit to the partnership” for “tangible or intangible property or other benefit to the limited partnership, including money, services performed, promissory notes, other agreements to contribute cash or property, and contracts for services to be performed.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 501 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Special capital.

Contribution of capital is important, if not indispensable, concrete step to create clear establishment of limited partner status to justify imposition of liability on that basis alone; absent such contribution of capital or at least entry into enforceable agreement to make such

contribution, no liability should accrue based solely upon one's status as putative limited partner. D.C. Code 1981, §§ 41-211, 41-217(a) (repealed). *Reiman v. International Hospitality Group, Ltd.*, 614 A.2d 925, 1992 D.C. App. LEXIS 256 (1992).

§ 29-705.02. Liability for contributions.

(a) A partner's obligation to contribute money or other property or other benefit to, or to perform services for, a limited partnership shall not be excused by the partner's death, disability, or other inability to perform personally.

(b) If a partner does not make a promised non-monetary contribution, the partner shall be obligated at the option of the limited partnership to contribute money equal to that portion of the value, as stated in the required information, of the stated contribution which has not been made.

(c) The obligation of a partner to make a contribution or return money or other property paid or distributed in violation of this chapter may be compro-

mised only by consent of all partners. A creditor of a limited partnership which extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section, without notice of any compromise under this subsection, may enforce the original obligation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(6)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-707.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “contributions” for “contribution” in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 502 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-705.03. Sharing of distributions.

A distribution by a limited partnership shall be shared among the partners on the basis of the value, as stated in the required records when the limited partnership decides to make the distribution, of the contributions the limited partnership has received from each partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-705.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 503 of the Uniform Limited Partnership Act (2001 Act).

§ 29-705.04. Interim distributions.

A partner shall not have a right to any distribution before the dissolution and winding up of the limited partnership unless the limited partnership decides to make an interim distribution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 504 of the Uniform Limited Partnership Act (2001 Act).

§ 29-705.05. No distribution on account of dissociation.

A person shall not have a right to receive a distribution on account of dissociation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 505 of the Uniform Limited Partnership Act (2001 Act).

§ 29-705.06. **Distribution in kind.**

A partner shall not have a right to demand or receive any distribution from a limited partnership in any form other than money. Subject to § 29-708.09(b), a limited partnership may distribute an asset in kind to the extent each partner receives a percentage of the asset equal to the partner's share of distributions.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(6)(C), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "money" for "cash."

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 506 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-705.07. **Right to distribution.**

If a partner or transferee becomes entitled to receive a distribution, the partner or transferee has the status of, and is entitled to all remedies available to, a creditor of the limited partnership with respect to the distribution. However, the limited partnership's obligation to make a distribution shall be subject to offset for any amount owed to the limited partnership by the partner or dissociated partner on whose account the distribution is made.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(6)(D), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "If" for "When."

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 507 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-705.08. **Limitations on distribution.**

(a) A limited partnership shall not make a distribution, including a distribution under § 29-708.09, in violation of the partnership agreement.

(b) A limited partnership shall not make a distribution if after the distribution:

(1) The limited partnership would not be able to pay its debts as they become due in the ordinary course of the limited partnership's activities and affairs; or

(2) The limited partnership's total assets would be less than the sum of its total liabilities plus, unless the partnership agreement permits otherwise, the amount that would be needed, if the limited partnership were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the

preferential rights upon dissolution, winding up, and termination of partners and transferees whose preferential rights are superior to those of persons receiving the distribution.

(c) A limited partnership may base a determination that a distribution is not prohibited under subsection (b) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(d) Except as otherwise provided in subsection (g) of this section, the effect of a distribution under subsection (b) of this section shall be measured:

(1) In the case of distribution, as defined in § 29-701.02(3), as of the earlier of:

(A) The date money or other property is transferred or debt is incurred by the limited partnership; or

(B) The date the person entitled to the distribution ceases to own the interest or right being acquired by the partnership in return for the distribution;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs not later than 120 days after that date; or

(B) The payment is made, if payment occurs more than 120 days after the distribution is authorized.

(e) A limited partnership's indebtedness to a partner incurred by reason of a distribution made in accordance with this section shall be at parity with the limited partnership's indebtedness to its general, unsecured creditors.

(f) A limited partnership's indebtedness, including indebtedness issued in connection with or as part of a distribution, shall not [be] considered a liability for purposes of subsection (b) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could then be made to partners under this section.

(g) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which is measured on the date the payment is made.

(h) In measuring the effect of a distribution under § 29-705.03, the debts, obligations, and other liabilities of a dissolved limited partnership do not include any claim that has been disposed of under § 29-708.06, [§] 29-708.07, or [§] 29-708.08.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(6)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-705.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (b) and (d); and added (h).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 508 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-705.09. Liability for improper distributions.

(a) A general partner that consents to a distribution made in violation of § 29-705.08 shall be personally liable to the limited partnership for the amount of the distribution which exceeds the amount that could have been distributed without the violation if it is established that in consenting to the distribution the general partner failed to comply with § 29-704.08.

(b) A partner or transferee that received a distribution knowing that the distribution to that partner or transferee was made in violation of § 29-705.08 shall be personally liable to the limited partnership but only to the extent that the distribution received by the partner or transferee exceeded the amount that could have been properly paid under § 29-705.08.

(c) A general partner against which an action is commenced under subsection (a) of this section may implead in the action any:

(1) Other person that is liable under subsection (a) of this section and compel contribution from the person; and

(2) Person that received a distribution in violation of subsection (b) of this section and compel contribution from the person in the amount the person received in violation of subsection (b) of this section.

(d) An action under this section shall be barred if it is not commenced within 2 years after the distribution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-704.09 and § 29-707.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 509 of the Uniform Limited Partnership Act (2001 Act).

Subchapter VI. Dissociation.

§ 29-706.01. Dissociation as limited partner.

(a) A person shall not have a right to dissociate as a limited partner before the completion of the winding up of the limited partnership.

(b) A person shall be dissociated from a limited partnership as a limited partner upon the occurrence of any of the following events:

(1) The limited partnership's having notice of the person's express will to withdraw as a limited partner or on a later date specified by the person;

(2) An event agreed to in the partnership agreement as causing the person's dissociation as a limited partner;

(3) The person's expulsion as a limited partner pursuant to the partnership agreement;

(4) The person's expulsion as a limited partner by the unanimous consent of the other partners if:

(A) It is unlawful to carry on the limited partnership's activities with the person as a limited partner;

(B) There has been a transfer of all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a limited partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the limited partnership, the person's expulsion as a limited partner by judicial order because:

(A) The person engaged in wrongful conduct that adversely and materially affected the limited partnership's activities;

(B) The person willfully or persistently committed a material breach of the partnership agreement or of the obligation of good faith and fair dealing under § 29-703.05(b); or

(C) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities with the person as limited partner;

(6) In the case of a person who is an individual, the person's death;

(7) In the case of a person that is a trust or is acting as a limited partner by virtue of being a trustee of a trust, distribution of the trust's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor trustee;

(8) In the case of a person that is an estate or is acting as a limited partner by virtue of being a personal representative of an estate, distribution of the estate's entire transferable interest in the limited partnership, but not merely by reason of the substitution of a successor personal representative;

(9) Termination of a limited partner that is not an individual, partnership, limited liability company, corporation, trust, or estate;

(10) The limited partnership's participation in a merger under subchapter X of this chapter, if the limited partnership is;

(A) Not the surviving entity; or

(B) The surviving entity but, as a result of the merger, the person ceases to be a limited partner;

(11) The limited partnership's participation in a transaction under Chapter 2 of this title if the limited partnership shall:

(A) Not survive the transaction; or

(B) Survive the transaction, but as a result of the transaction, the person ceases to be a limited partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-711.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “completion of the winding up” for “termination” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 601 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-706.02. Effect of dissociation as limited partner.

(a) Upon a person’s dissociation as a limited partner:

(1) Subject to § 29-707.04, the person shall not have further rights as a limited partner;

(2) The person’s obligation of good faith and fair dealing as a limited partner under § 29-703.05(b) shall continue only as to matters arising and events occurring before the dissociation; and

(3) Subject to § 29-707.04 and subchapter X of this chapter, any transferable interest owned by the person in the person’s capacity as a limited partner immediately before dissociation shall be owned by the person as a mere transferee.

(b) A person’s dissociation as a limited partner does not itself discharge the person from any debt, liability, or other obligation to the limited partnership or the other partners which the person incurred while a limited partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02 and § 29-711.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “does not itself discharge the person from any debt, liability, or other obligation” for “shall not of itself discharge the person from any obligation” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 602 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-706.03. Dissociation as general partner.

A person shall be dissociated from a limited partnership as a general partner when:

(1) The limited partnership has notice of the person’s express will to withdraw as a general partner or on a later date specified by the person;

(2) An event agreed to in the partnership agreement as causing the person’s dissociation as a general partner occurs;

(3) The person is expelled as a general partner pursuant to the partnership agreement;

(4) The person is expelled as a general partner by the unanimous consent of the other partners if:

(A) It is unlawful to carry on the limited partnership's activities with the person as a general partner;

(B) There has been a transfer of all or substantially all of the person's transferable interest in the limited partnership, other than a transfer for security purposes, or a court order charging the person's interest, which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the limited partnership notifies the person that it will be expelled as a general partner because it has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, there is no revocation of the certificate of dissolution or no reinstatement of its charter or its right to conduct business; or

(D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the limited partnership, the person is expelled as a general partner by judicial determination because:

(A) The person engaged in wrongful conduct that adversely and materially affected the limited partnership activities;

(B) The person willfully or persistently committed a material breach of the partnership agreement or of a duty owed to the partnership or the other partners under § 29-704.08; or

(C) The person engaged in conduct relating to the limited partnership's activities which makes it not reasonably practicable to carry on the activities of the limited partnership with the person as a general partner;

(6) The person:

(A) Became a debtor in bankruptcy;

(B) Executes an assignment for the benefit of creditors;

(C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property; or

(D) Fails, within 90 days after the appointment, to have vacated or stayed the appointment of a trustee, receiver, or liquidator of the general partner or of all or substantially all of the person's property obtained without the person's consent or acquiescence, or failing within 90 days after the expiration of a stay to have the appointment vacated;

(7) In the case of a person who is an individual:

(A) The person dies;

(B) A guardian or general conservator is appointed for the person; or

(C) There is a judicial determination that the person has otherwise become incapable of performing the person's duties as a general partner under the partnership agreement;

(8) In the case of a person that is a trust or is acting as a general partner by virtue of being a trustee of a trust, the trust's entire transferable interest in the limited partnership is distributed;

(9) In the case of a person that is an estate or is acting as a general partner by virtue of being a personal representative of an estate, the estate's entire transferable interest in the limited partnership is distributed;

(10) A general partner that is not an individual, partnership, limited liability company, corporation, trust, or estate terminates;

(11) The limited partnership's participation in a merger under subchapter X of this chapter, if the limited partnership is:

(A) Not the surviving entity; or

(B) The surviving entity but, as a result of the merger, the person ceases to be a general partner; or

(12) The limited partnership's participation in a transaction under the [sic] Chapter 2 of this title if the limited partnership:

(A) Does Not [not] survive the transaction; or

(B) Survives the transaction, but as a result of the transaction, the person ceases to be a general partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-704.07, § 29-706.04, and § 29-711.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “shall” at the end of the introductory language of (12); substituted “Does not” for “Not” in (12)(A); and substituted “Survives” for “Survive” in (12)(B).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 603 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-706.04. Person's power to dissociate as general partner; wrongful dissociation.

(a) A person may dissociate as a general partner at any time, rightfully or wrongfully, by express will pursuant to § 29-706.03(1).

(b) A person's dissociation as a general partner shall be wrongful only if:

(1) It is in breach of an express provision of the partnership agreement; or

(2) It occurs before the completion of the winding up of the limited partnership and the person:

(A) Withdraws as a general partner by express will;

(B) Expelled as a general partner by judicial determination under § 29-706.03(5);

(C) Is dissociated as a general partner by becoming a debtor in bankruptcy; or

(D) In the case of a person that is not an individual, trust (other than a business trust), or estate, is expelled or otherwise dissociated as a general partner because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a general partner shall be liable to the limited partnership and, subject to § 29-709.01, to the other partners for damages caused by the dissociation. The liability shall be in addition to any other obligation of the general partner to the limited partnership or to the other partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “completion of the winding up” for “termination” in (b)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 604 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-706.05. Effect of dissociation as general partner.

(a) Upon a person’s dissociation as a general partner:

(1) The person’s right to participate as a general partner in the management and conduct of the partnership’s activities and affairs shall terminate;

(2) The person’s duty of loyalty as a general partner under § 29-704.08(b)(3) shall terminate;

(3) The person’s duty of loyalty as a general partner under § 29-704.08(b)(1) and (2) and duty of care under § 29-704.08(c) continue only with regard to matters arising and events occurring before the person’s dissociation as a general partner;

(4) The person may sign and deliver to the Mayor for filing a statement of dissociation pertaining to the person and, at the request of the limited partnership, shall sign an amendment to the certificate of limited partnership which states that the person has dissociated; and

(5) Subject to § 29-707.04, subchapter X of this chapter, and Chapter 2 of this title, any transferable interest owned by the person immediately before dissociation in the person’s capacity as a general partner shall be owned by the person as a mere transferee.

(b) A person’s dissociation as a general partner shall not of itself discharge the person from any debt, liability, or other obligation to the limited partnership or the other partners which the person incurred while a general partner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.02 and § 29-702.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” in (a)(1); and substituted “debt, liability, or other obligation” for “obligation” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 605 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-706.06. Power to bind and liability to limited partnership before dissolution of partnership of person dissociated as general partner.

(a) After a person is dissociated as a general partner and before the limited partnership is dissolved, merged out of existence, converted, or domesticated under subchapter X of this chapter or Chapter 2 of this title, or otherwise ceases to exist in the form of a limited partnership as a result of a transaction under Chapter 2 of this title, the limited partnership shall be bound by an act of the person only if:

(1) The act would have bound the limited partnership under § 29-704.02 before the dissociation; and

(2) At the time the other party enters into the transaction:

(A) Less than 2 years has passed since the dissociation; and

(B) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(b) If a limited partnership is bound under subsection (a) of this section, the person dissociated as a general partner which caused the limited partnership to be bound shall be liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation incurred under subsection (a) of this section; and

(2) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(F), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “merged out of existence, converted, or domesticated” for “merged” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor’s notes. — Uniform Law: This section is based on § 606 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-706.07. Liability to other persons of person dissociated as general partner.

(a) A person’s dissociation as a general partner shall not of itself discharge the person’s liability as a general partner for a debt, obligation, or other liability of the limited partnership incurred before dissociation. Except as otherwise provided in subsections (b) and (c) of this section, the person shall not be liable for a limited partnership’s debt, obligation, or other liability incurred after dissociation.

(b) A person whose dissociation as a general partner resulted in a dissolution and winding up of the limited partnership’s activities and affairs shall not

be liable to the same extent as a general partner under § 29-704.04 on a debt, obligation, or other liability incurred by the limited partnership under § 29-708.04.

(c) A person that has dissociated as a general partner but whose dissociation did not result in a dissolution and winding up of the limited partnership's activities and affairs shall not be liable on a transaction entered into by the limited partnership after the dissociation only if:

(1) A general partner would be liable on the transaction; and

(2) At the time the other party enters into the transaction:

(A) Less than 2 years has passed since the dissociation; and

(B) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner.

(d) By agreement with a creditor of a limited partnership and the limited partnership, a person dissociated as a general partner may be released from liability for a debt, liability, or other obligation of the limited partnership.

(e) A person dissociated as a general partner shall be released from liability for a debt, obligation, or other liability of the limited partnership if the limited partnership's creditor, with notice of the person's dissociation as a general partner but without the person's consent, agrees to a material alteration in the nature or time of payment of the a debt, obligation, or other liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(7)(G), 59 DCR 13171.)

Section references. — This section is referenced in § 29-708.09 and § 29-710.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “a debt, obligation, or other liability” for “an obligation” or variants thereof in (a), (d) and (e); and substituted “activities and affairs” for “activities” in (b) and (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 607 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VII. Transferable Interests and Rights of Transferees and Creditors.

§ 29-707.01. Partner's transferable interest.

A transferable interest is personal property.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(8)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 701 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C.

Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-707.02. Transfer of partner's transferable interest.

(a) A transfer, in whole or in part, of a partner's transferable interest:

(1) Is permissible;

(2) Shall not by itself cause the partner's dissociation or a dissolution and winding up of the limited partnership's activities and affairs; and

(3) Shall not, as against the other partners or the limited partnership, entitle the transferee to participate in the management or conduct of the limited partnership's activities and affairs, to require access to information concerning the limited partnership's transactions except as otherwise provided in subsection (c) of this section, or to inspect or copy the required information or the limited partnership's other records.

(b) A transferee shall have a right to receive, in accordance with the transfer:

(1) Distributions to which the transferor would otherwise be entitled; and

(2) Upon the dissolution and winding up of the limited partnership's activities and affairs, the net amount otherwise distributable to the transferor.

(c) In a dissolution and winding up, a transferee shall be entitled to an account of the limited partnership's transactions only from the date of dissolution.

(d) Upon transfer, the transferor retain the rights of a partner other than the interest in distributions transferred and shall retain all duties and obligations of a partner.

(e) A limited partnership need not give effect to a transferee's rights under this section until the limited partnership has notice of the transfer.

(f) A transfer of a partner's transferable interest in the limited partnership in violation of a restriction on transfer contained in the partnership agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

(g) A transferee that becomes a partner with respect to a transferable interest shall be liable for the transferor's obligations under §§ 29-705.02 and 29-705.09. However, the transferee shall not be obligated for liabilities unknown to the transferee at the time the transferee became a partner.

(h) A transferable interest may be evidenced by a certificate of the interest issued by a limited partnership in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(8)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-707.03 and § 29-707.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a)(2), (a)(3), and (b)(2); and added (h).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 702 of the Uniform Limited Partnership Act (2001 Act).

Law 19-210 provided that the act shall apply as of January 1, 2012.

Application of Law 19-210: Section 7 of D.C.

§ 29-707.03. Charging order.

(a) On application by a judgment creditor of a partner or transferee, the Superior Court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. A charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited partnership to pay over to the person to which the charging order was issued any distribution that otherwise would be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the Superior Court may:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the Superior Court may foreclose the lien and order the sale of the transferable interest. The purchaser at the foreclosure sale obtains only the transferable interest, does not thereby become a partner, and is subject to § 29-707.02.

(d) At any time before foreclosure under subsection (c) of this section, the partner or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the Superior Court.

(e) At any time before foreclosure under subsection (c) of this section, a limited partnership or one or more partners whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(f) This chapter does not deprive any partner or transferee of the benefit of any exemption law applicable to the transferable interest of the partner or transferee.

(g) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a partner or transferee may, in the capacity of a judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(8)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.09.

amendment by D.C. Law 19-210 rewrote the section.

Effect of amendments. — The 2013

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 703 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-707.04. Power of legal representative of deceased partner.

If a partner dies, the deceased partner's personal representative or other legal representative may exercise the rights of a transferee as provided in § 29-707.02 and, for the purposes of settling the estate, may exercise the rights of a current limited partner under § 29-703.04.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(8)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-703.04, § 29-704.07, § 29-706.02, and § 29-706.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "legal representative" for "estate" in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 704 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VIII. Dissolution.

§ 29-708.01. Nonjudicial dissolution.

Except as otherwise provided in § 29-708.02, a limited partnership is dissolved, and its activities and affairs shall be wound up, only upon the occurrence of any of the following:

- (1) The happening of an event specified in the partnership agreement;
- (2) The consent of all general partners and of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective;

- (3) After the dissociation of a person as a general partner:

(A) If the limited partnership has at least one remaining general partner, the consent to dissolve the limited partnership given within 90 days after the dissociation by partners owning a majority of the rights to receive distributions as partners at the time the consent is to be effective; or

(B) If the limited partnership does not have a remaining general partner, the passage of 90 days after the dissociation, unless before the end of the period:

- (i) Consent to continue the activities and affairs of the limited partnership and admit at least one general partner is given by limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective; and

(ii) At least one person is admitted as a general partner in accordance with the consent;

(4) The passage of 90 days after the dissociation of the limited partnership's last limited partner, unless before the end of the period the limited partnership admits at least one limited partner; or

(5) The signing and filing of a certificate of dissolution by the Mayor under § 29-106.02.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-702.04, § 29-703.01, § 29-704.01, and § 29-711.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” in the introductory language and in (3)(B)(i).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 801 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Assumption of debt.
Withdrawal of partners.

Assumption of debt.

Although amendment to certificate of limited partnership stated that, when corporation was admitted into partnership, partnership would not be dissolved, corporation did not obligate itself to assume debts partnership had previously incurred where original partnership had already been dissolved by transfer of partnership assets to corporation, irrespective of corporation's intent. *Dodek v. CF 16 Corp.*, 537 A.2d 1086, 1988 D.C. App. LEXIS 17 (1988).

Despite dissolution of old partnership, corporation which acquired all limited partnership interests in partnership could have elected to assume partnership debts and continue partnership business. *D.C. Code 1981, § 41-140(d). Dodek v. CF 16 Corp.*, 537 A.2d 1086, 1988 D.C. App. LEXIS 17 (1988).

Withdrawal of partners.

Partnership was legally dissolved when all original limited partners withdrew from partnership although general partners continued as general partners. *Dodek v. CF 16 Corp.*, 537 A.2d 1086, 1988 D.C. App. LEXIS 17 (1988).

§ 29-708.02. Judicial dissolution.

On application by a partner the Superior Court may order dissolution of a limited partnership if it is not reasonably practicable to carry on the activities and affairs of the limited partnership in conformity with the partnership agreement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-708.01, and § 29-708.10.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities”.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 802 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-708.03. Winding up.

(a) A limited partnership shall continue after dissolution only for the purpose of winding up its activities and affairs.

(b) In winding up its activities and affairs, the limited partnership:

(1) May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of termination as provided in § 29-702.03, and perform other necessary acts; and

(2) Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.

(c) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities and affairs may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection shall:

(1) Have the powers of a general partner under § 29-708.04; and

(2) Promptly amend the certificate of limited partnership to state:

(A) That the limited partnership does not have a general partner;

(B) The name of the person that has been appointed to wind up the limited partnership; and

(C) The street and mailing address of the person.

(d) On the application of any partner, the Superior Court may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities and affairs, if:

(1) A limited partnership does not have a general partner and within a reasonable time following the dissolution no person has been appointed pursuant to subsection (c) of this section; or

(2) The applicant establishes other good cause.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07, § 29-702.02, § 29-702.03, and § 29-702.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" throughout the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 803 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Duty to partners.

Changes in corporate debtor's status worked by filing of bankruptcy petition did not absolve debtor, as managing general partner of limited partnership, of duties of good faith and fair

dealing owed to fellow partners during winding up phase. *Washington Medical Center, Inc. v. Holle*, 573 A.2d 1269, 1990 D.C. App. LEXIS 99 (1990).

§ 29-708.04. Power of general partner and person dissociated as general partner to bind partnership after dissolution.

(a) A limited partnership shall be bound by a general partner's act after dissolution which:

(1) Is appropriate for winding up the limited partnership's activities and affairs; or

(2) Would have bound the limited partnership under § 29-704.02 before dissolution, if, at the time the other party enters into the transaction, the other party does not have notice or knowledge of the dissolution.

(b) A person dissociated as a general partner shall bind a limited partnership through an act occurring after dissolution if:

(1) At the time the other party enters into the transaction:

(A) Less than 2 years has passed since the dissociation; and

(B) The other party does not have notice of the dissociation and reasonably believes that the person is a general partner; and

(2) The act:

(A) Is appropriate for winding up the limited partnership's activities; or

(B) Would have bound the limited partnership under § 29-704.02 before dissolution and at the time the other party enters into the transaction the other party does not have notice or knowledge of the dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-706.07, § 29-708.03, and § 29-708.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a)(1); and substituted "notice or knowledge" for "notice" in (a)(2) and (b)(2)(B).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 804 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-708.05. Liability after dissolution of general partner and person dissociated as general partner to limited partnership, other general partners, and persons dissociated as general partner.

(a) If a general partner having knowledge of the dissolution causes a limited

partnership to incur an obligation under § 29-708.04(a) by an act that is not appropriate for winding up the partnership's activities and affairs, the general partner shall be liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) If another general partner or a person dissociated as a general partner is liable for the obligation, to that other general partner or person for any damage caused to that other general partner or person arising from the liability.

(b) If a person dissociated as a general partner causes a limited partnership to incur an obligation under § 29-708.04(b), the person shall be liable:

(1) To the limited partnership for any damage caused to the limited partnership arising from the obligation; and

(2) If a general partner or another person dissociated as a general partner is liable for the obligation, to the general partner or other person for any damage caused to the general partner or other person arising from the liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(E), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 805 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-708.06. Known claims against dissolved limited partnership.

(a) A dissolved limited partnership may dispose of the known claims against it by following the procedure described in subsection (b) of this section.

(b) A dissolved limited partnership may notify its known claimants of the dissolution in a record. The notice shall:

(1) Specify the information required to be included in a claim;

(2) Provide a mailing address to which the claim is to be sent;

(3) State the deadline for receipt of the claim, which may not be less than 120 days after the date the notice is received by the claimant;

(4) State that the claim will be barred if not received by the deadline; and

(5) Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on § 29-704.04.

(c) A claim against a dissolved limited partnership shall be barred if the requirements of subsection (b) of this section are met and:

(1) The claim is not received by the specified deadline; or

(2) In the case of a claim that is timely received but rejected by the

dissolved limited partnership, the claimant does not commence an action to enforce the claim against the limited partnership within 90 days after the receipt of the notice of the rejection.

(d) This section shall not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-705.08, § 29-708.07, § 29-708.08, and § 29-708.11.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 806 of the Uniform Limited Partnership Act (2001 Act).

§ 29-708.07. Other claims against dissolved limited partnership.

(a) A dissolved limited partnership may publish notice of its dissolution and request persons having claims against the limited partnership to present them in accordance with the notice.

(b) The notice shall:

(1) Be published at least once in a newspaper of general circulation in the District;

(2) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent;

(3) State that a claim against the limited partnership is barred unless an action to enforce the claim is commenced within 3 years after publication of the notice; and

(4) Unless the limited partnership has been throughout its existence a limited liability limited partnership, state that the barring of a claim against the limited partnership will also bar any corresponding claim against any general partner or person dissociated as a general partner which is based on § 29-704.04.

(c) If a dissolved limited partnership publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences an action to enforce the claim against the dissolved limited partnership within 3 years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under § 29-708.06;

(2) A claimant whose claim was timely sent to the dissolved limited partnership but not acted on; and

(3) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution.

(d) A claim not barred under this section may be enforced:

(1) Against the dissolved limited partnership, to the extent of its undistributed assets;

(2) If the assets have been distributed in liquidation, against a partner or transferee to the extent of that person's proportionate share of the claim or the

limited partnership's assets distributed to the partner or transferee in liquidation, whichever is less, but a person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person as part of the winding up of the dissolved limited partnership; or

(3) Against any person liable on the claim under § 29-704.04.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-705.08 and § 29-708.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 807 of the Uniform Limited Partnership Act (2001 Act).

§ 29-708.08. Liability of general partner and person dissociated as general partner when claim against limited partnership barred.

If a claim against a dissolved limited partnership is barred under § 29-708.06 or § 29-708.07, any corresponding claim under § 29-704.04 shall also be barred.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-705.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 808 of the Uniform Limited Partnership Act (2001 Act).

§ 29-708.09. Disposition of assets; when contributions required.

(a) In winding up a limited partnership's activities and affairs, the assets of the limited partnership, including the contributions required by this section, shall be applied to satisfy the limited partnership's obligations to creditors, including, to the extent permitted by law, partners that are creditors.

(b) Any surplus remaining after the limited partnership complies with subsection (a) of this section shall be paid in cash as a distribution.

(c) If a limited partnership's assets are insufficient to satisfy all of its obligations under subsection (a) of this section, with respect to each unsatisfied obligation incurred when the limited partnership was not a limited liability limited partnership, the following rules apply:

(1) Each person that was a general partner when the obligation was incurred and that has not been released from the obligation under § 29-706.07 shall contribute to the limited partnership for the purpose of enabling the limited partnership to satisfy the obligation. The contribution due from each of those persons shall be in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(2) If a person does not contribute the full amount required under

paragraph (1) of this subsection with respect to an unsatisfied obligation of the limited partnership, the other persons required to contribute by paragraph (1) of this subsection on account of the obligation shall contribute the additional amount necessary to discharge the obligation. The additional contribution due from each of those other persons shall be in proportion to the right to receive distributions in the capacity of general partner in effect for each of those other persons when the obligation was incurred.

(3) If a person does not make the additional contribution required by paragraph (2), further additional contributions shall be determined and due in the same manner as provided in that paragraph.

(d) A person that makes an additional contribution under subsection (c)(2) or (3) of this section may recover from any person whose failure to contribute under subsection (c)(1) or (2) of this section necessitated the additional contribution. A person shall not recover under this subsection more than the amount additionally contributed. A person's liability under this subsection shall not exceed the amount the person failed to contribute.

(e) The estate of a deceased individual shall be liable for the person's obligations under this section.

(f) An assignee for the benefit of creditors of a limited partnership or a partner, or a person appointed by a court to represent creditors of a limited partnership or a partner, may enforce a person's obligation to contribute under subsection (c) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-705.06 and § 29-705.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 812 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-708.10. Rescinding dissolution.

(a) A limited partnership may rescind its dissolution, unless a statement of termination applicable to the partnership is effective, the Superior Court has entered an order under § 29-708.02 dissolving the partnership, or the Mayor has dissolved the partnership under § 29-106.02.

(b) Rescinding dissolution under this section requires:

(1) The consent of each partner; and

(2) If the limited partnership has delivered to the Mayor for filing an amendment to the certificate of limited partnership stating that the partnership is dissolved and if:

(A) The amendment is not effective, the filing by the partnership of a statement of withdrawal under § 29-102.04 applicable to the amendment; or

(B) The amendment is effective, the delivery by the partnership to the

Mayor for filing of an amendment to the certificate of limited partnership stating that dissolution has been rescinded under this section.

(c) If a limited partnership rescinds its dissolution:

(1) The partnership resumes carrying on its activities and affairs as if dissolution had never occurred;

(2) Subject to paragraph (3) of this subsection, any liability incurred by the partnership after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

(Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-701.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-708.11. Court proceedings.

(a) A dissolved limited partnership that has published a notice under § 29-708.06(b) may file an application with the Superior Court, or, if the principal office is not located in the District, in an appropriate court where the company's principal office is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent, have not been made known to the partnership, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the partnership, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under § 29-708.06(c).

(b) Not later than 10 days after the filing of an application under subsection (a) of this section, the dissolved limited partnership shall give notice of the proceeding to each claimant holding a contingent claim known to the partnership.

(c) In a proceeding brought under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited partnership.

(d) A dissolved limited partnership that provides security in the amount and form ordered by the court under subsection (a) of this section satisfies the partnership's obligations with respect to claims that are contingent, have not been made known to the partnership, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a partner or transferee that received assets in liquidation.

(Mar. 5, 2013, D.C. Law 19-210, § 2(g)(9)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that

the act shall apply as of January 1, 2012.

Subchapter IX. Actions by Partners.

§ 29-709.01. Direct action by partner.

(a) Subject to subsection (b) of this section, a partner may maintain a direct action in the Superior Court against the limited partnership or another partner for legal or equitable relief, with or without an accounting as to the partnership's activities and affairs, to enforce the rights and otherwise protect the interests of the partner, including rights and interests under the partnership agreement or this chapter or arising independently of the partnership relationship.

(b) A partner commencing a direct action under this section shall be required to plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited partnership.

(c) The accrual of, and any time limitation on, a right of action for a remedy under this section shall be governed by other law. A right to an accounting upon a dissolution and winding up shall not revive a claim barred by law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(10)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-706.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 1001 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-709.02. Derivative action.

A partner may maintain a derivative action in the Superior Court to enforce a right of a limited partnership if:

(1) The partner first makes a demand on the general partners, requesting that they cause the limited partnership to bring an action to enforce the right, and the general partners do not bring the action within a reasonable time; or

(2) A demand would be futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1002 of the Uniform Limited Partnership Act (2001 Act).

§ 29-709.03. Proper plaintiff.

A derivative action shall be maintained only by a person that is a partner at the time the action is commenced and:

(1) That was a partner when the conduct giving rise to the action occurred; or

(2) Whose status as a partner devolved upon the person by operation of law or pursuant to the terms of the partnership agreement from a person that was a partner at the time of the conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1003 of the Uniform Limited Partnership Act (2001 Act).

§ 29-709.04. Pleading.

In a derivative action, the complaint shall state with particularity:

(1) The date and content of plaintiff's demand and the general partners' response to the demand; or

(2) Why demand should be excused as futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1004 of the Uniform Limited Partnership Act (2001 Act).

§ 29-709.05. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action, whether by judgment, compromise, or settlement, shall belong to the limited partnership and not to the derivative plaintiff;

(2) If the derivative plaintiff receives any proceeds, the derivative plaintiff shall immediately remit them to the limited partnership.

(b) If a derivative action is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses, including reasonable attorneys' fees, from the recovery of the limited partnership.

(c) A derivative action on behalf of a limited partnership may not be voluntarily dismissed or settled without the Superior Court's approval.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(g)(10)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Uniform Law: This section is based on § 1005 of the Uniform Limited Partnership Act (2001 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-709.06. Special litigation committee.

(a) If a limited partnership is named as or made a party in a derivative

proceeding, the partnership may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the partnership. If the partnership appoints a special litigation committee, on motion by the committee made in the name of the partnership, except for good cause shown, the Superior Court shall stay discovery for the time reasonably necessary to permit the committee to complete its investigation. This subsection does not prevent the court from enforcing a person's right to information under § 29-703.04 or 29-704.07 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be partners.

(c) A special litigation committee may be appointed:

(1) By a majority of the general partners not named as defendants or plaintiffs in the proceeding; and

(2) If all general partners are named as defendants or plaintiffs in the proceeding, by a majority of the general partners named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited partnership that the proceeding:

(1) Continue under the control of the plaintiff;

(2) Continue under the control of the committee;

(3) Be settled on terms approved by the committee; or

(4) Be dismissed.

(e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the Superior Court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee met their burden of proof, were disinterested and independent, and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to proceed under the direction of the plaintiff.

(Mar. 5, 2013, D.C. Law 19-210, § 2(g)(10)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-701.07.

Legislative history of Law 19-210. — See note to § 29-701.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter X. Merger.

§ 29-710.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Constituent limited partnership" means a domestic or foreign limited partnership that is a party to a merger.

(2) "Governing statute" of a domestic or foreign limited partnership means the statute that governs the partnership's internal affairs.

(3) "Personal liability" means personal liability for a debt, liability, or other obligation of a limited partnership which is imposed on a person that co-owns, has an interest in, or is a member of the limited partnership by the limited partnership's:

(A) Governing statute solely by reason of the person co-owning, having an interest in, or being a member of the limited partnership; or

(B) Certificate of limited partnership and partnership agreement under a provision of the limited partnership's governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, liabilities, and other obligations of the limited partnership solely by reason of the person or persons co-owning, having an interest in, or being a member of the limited partnership.

(4) "Surviving limited partnership" means a domestic or foreign limited partnership into which one or more other domestic or foreign limited partnerships are merged. A surviving limited partnership may preexist the merger or be created by the merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1101 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.02. Merger.

(a) A limited partnership may merge with one or more other domestic or foreign limited partnerships and 2 or more foreign limited partnerships may merge into a domestic limited partnership pursuant to this section, §§ 29-710.03 through 29-710.05, and a plan of merger, if:

(1) The governing statute of each of the other constituent limited partnerships authorizes the merger; and

(2) Each of the other constituent limited partnerships complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name of each constituent limited partnership;

(2) The name of the surviving limited partnership and, if the surviving limited partnership is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent limited partnership into

any combination of money, interests in the surviving limited partnership, interests in any other organization, and other consideration;

(4) If the surviving limited partnership is to be created by the merger, the certificate of limited partnership and partnership agreement of the surviving limited partnership; and

(5) If the surviving limited partnership is not to be created by the merger, any amendments to be made by the merger to the certificate of limited partnership and partnership agreement of the surviving limited partnership.

(c) A merger in which a limited partnership and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1106 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.03. Action on plan of merger by constituent limited partnership.

(a) Subject to § 29-710.06, a plan of merger shall be consented to by all the partners of a constituent limited partnership.

(b) Subject to § 29-710.06 and any contractual rights, after a merger is approved, and at any time before a filing is made under § 29-710.04, a constituent limited partnership may amend the plan or abandon the planned merger:

(1) As provided in the plan; and

(2) Except as prohibited by the plan, with the same consent as was required to approve the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-710.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1107 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.04. Filings required for merger; effective date.

(a) After each constituent limited partnership has approved a merger, articles of merger shall be signed on behalf of each preexisting:

(1) Domestic limited partnership, by each general partner listed in the certificate of limited partnership; and

(2) Foreign limited partnership, by an authorized representative.

(b) The articles of merger shall include:

(1) The name of each constituent limited partnership and the jurisdiction of its governing statute;

(2) The name of the surviving limited partnership, the jurisdiction of its governing statute, and, if the surviving limited partnership is created by the merger, a statement to that effect;

(3) The date the merger is effective under the governing statute of the surviving limited partnership;

(4) If the surviving limited partnership is to be created by the merger, its certificate of limited partnership;

(5) If the surviving limited partnership preexists the merger, any amendments provided for in the plan of merger to its certificate of limited partnership;

(6) A statement as to each constituent limited partnership that the merger was approved as required by the limited partnership's governing statute;

(7) If the surviving limited partnership is a foreign limited partnership not authorized to do business in the District, the street and mailing address of an office which the Mayor may use for the purposes of § 29-710.05(b); and

(8) Any additional information required by the governing statute of any constituent limited partnership.

(c) Each constituent limited partnership shall deliver the articles of merger for filing with the Mayor.

(d) A merger shall be effective under this subchapter upon the later of:

(1) Compliance with subsection (c) of this section; or

(2) Subject to subchapter II of Chapter 2 of this title, as specified in the articles of merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-702.04, § 29-710.03, and § 29-710.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1108 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.05. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving limited partnership shall continue or come into existence;

(2) Each constituent limited partnership that merges into the surviving limited partnership shall cease to exist as a separate entity;

(3) All property owned by each constituent limited partnership that ceases to exist shall vest in the surviving limited partnership;

(4) All debts, liabilities, and other obligations of each constituent limited partnership that ceases to exist shall be the obligations of the surviving limited partnership;

(5) An action or proceeding pending by or against any constituent limited partnership that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent limited partnership that ceases to exist shall vest in the surviving limited partnership;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger shall take effect;

(8) Except as otherwise agreed, if a constituent limited partnership ceases to exist, the merger shall not dissolve the limited partnership for the purposes of subchapter VIII of this chapter;

(9) If the surviving limited partnership is created by the merger, its certificate of limited partnership shall become effective; and

(10) If the surviving limited partnership preexists the merger, any amendments provided for in the articles of merger to its certificate of limited partnership and partnership agreement shall become effective.

(b) A surviving limited partnership that is a foreign limited partnership consents to the jurisdiction of the Superior Court to enforce any obligation owed by a constituent limited partnership, if before the conversion the constituent limited partnership was subject to suit in the District on that obligation. A surviving limited partnership that is a foreign limited partnership and not authorized to do business in the District may be served with process at the address required in the articles of merger under § 29-710.04(b)(7).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-710.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1109 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.06. Restrictions on approval of mergers and on relinquishing limited liability limited partnership status.

(a) If a partner of a constituent limited partnership will have personal liability with respect to any organization as a result of a merger, approval and amendment of a plan of merger shall be ineffective without the consent of that partner, unless:

(1) The limited partnership's partnership agreement provides for the approval of the merger with the consent of less than all the partners; and

(2) The partner has consented to the provision of the partnership agreement.

(b) An amendment to a certificate of limited partnership which deletes a statement that the limited partnership is a limited liability limited partnership shall be ineffective without the consent of each general partner unless:

(1) The limited partnership's partnership agreement provides for the amendment with the consent of less than all the general partners; and

(2) Each general partner that does not consent to the amendment has consented to the provision of the partnership agreement.

(c) A partner shall not give the consent required by subsection (a) or (b) of this section merely by consenting to a provision of the partnership agreement

which permits the partnership agreement to be amended with the consent of fewer than all the partners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-701.07, § 29-704.06, and § 29-710.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1110 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.07. Liability of general partner after merger.

(a) A merger under this article shall not discharge any liability under §§ 29-704.04 and 29-706.07 of a person that was a general partner in or dissociated as a general partner from a constituent limited partnership, but:

(1) The provisions of this chapter pertaining to the collection or discharge of that liability shall continue to apply to that liability;

(2) For the purposes of applying those provisions, the surviving limited partnership shall be deemed to be the constituent limited partnership; and

(3) If a person is required to pay any amount under this subsection:

(A) The person shall have a right of contribution from each other person that was liable as a general partner under § 29-704.04 when the obligation was incurred and has not been released from the obligation under § 29-706.07; and

(B) The contribution due from each of those persons shall be in proportion to the right to receive distributions in the capacity of general partner in effect for each of those persons when the obligation was incurred.

(b) In addition to any other liability provided by law:

(1) A person that immediately before a merger became effective was a general partner in a constituent limited partnership that was not a limited liability limited partnership shall be personally liable for each obligation of the surviving limited partnership arising from a transaction with a third party after the merger becomes effective if, at the time the third party enters into the transaction, the third party:

(A) Does not have notice of the merger; and

(B) Reasonably believes that:

(i) The surviving business is the constituent limited partnership;

(ii) The constituent limited partnership is not a limited liability limited partnership; and

(iii) The person is a general partner in the constituent limited partnership; and

(2) A person that was dissociated as a general partner from a constituent limited partnership before the merger became effective shall be personally liable for each obligation of the surviving limited partnership arising from a transaction with a third party after the merger becomes effective if:

(A) Immediately before the merger became effective, the surviving limited partnership was not a limited liability limited partnership; and

(B) At the time the third party enters into the transaction, less than 2

years have passed since the person dissociated as a general partner and the third party:

- (i) Does not have notice of the dissociation;
- (ii) Does not have notice of the merger; and
- (iii) Reasonably believes that the surviving limited partnership is the constituent limited partnership, the constituent limited partnership is not a limited liability limited partnership, and the person is a general partner in the constituent limited partnership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1111 of the Uniform Limited Partnership Act (2001 Act).

§ 29-710.08. Power of general partners and persons dissociated as general partners to bind limited partnership after merger.

(a) An act of a person that immediately before a merger became effective was a general partner in a constituent limited partnership shall bind the surviving limited partnership after the merger becomes effective if:

- (1) Before the merger became effective, the act would have bound the constituent limited partnership under § 29-704.02; and
- (2) At the time the third party enters into the transaction, the third party:
 - (A) Does not have notice of the merger; and
 - (B) Reasonably believes that the surviving business is the constituent limited partnership and that the person is a general partner in the constituent limited partnership.

(b) An act of a person that before a merger became effective was dissociated as a general partner from a constituent limited partnership shall bind the surviving limited partnership after the merger becomes effective if:

- (1) Before the merger became effective, the act would have bound the constituent limited partnership under § 29-704.02 if the person had been a general partner; and
- (2) At the time the third party enters into the transaction, less than 2 years have passed since the person dissociated as a general partner and the third party:
 - (A) Does not have notice of the dissociation;
 - (B) Does not have notice of the merger; and
 - (C) Reasonably believes that the surviving limited partnership is the constituent limited partnership and that the person is a general partner in the constituent limited partnership.

(c) If a person having knowledge of the merger causes a surviving limited partnership to incur an obligation under subsection (a) or (b) of this section, the person shall be liable:

- (1) To the surviving limited partnership for any damage caused to the surviving limited partnership arising from the obligation; and

(2) If another person is liable for the obligation, to that other person for any damage caused to that other person arising from that liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1112 of the Uniform Limited Partnership Act (2001 Act).

Subchapter XI. Transition Provisions.

§ 29-711.01. Application to existing relationships.

(a) Before one year after the applicability date of this chapter, this chapter shall govern only:

(1) A limited partnership formed on or after the applicability date of this chapter; and

(2) Except as otherwise provided in subsections (c) and (d) of this section, a limited partnership formed before the applicability date of this chapter which elects, in the manner provided in its partnership agreement or by law for amending the partnership agreement, to be subject to this chapter.

(b) Except as otherwise provided in subsection (c) of this section, on and after one year after applicability date of this chapter, this chapter shall govern all limited partnerships.

(c) With respect to a limited partnership formed before the applicability date of this chapter, the following rules apply except as the partners otherwise elect in the manner provided in the partnership agreement or by law for amending the partnership agreement:

(1) Section 29-701.04(c) shall not apply and the limited partnership has whatever duration it had under the law applicable immediately before the applicability date of this chapter.

(2) The limited partnership shall not be required to amend its certificate of limited partnership to comply with § 29-702.01(a)(4).

(3) Sections 29-706.01 and 29-706.02 shall not apply and a limited partner has the same right and power to dissociate from the limited partnership, with the same consequences, as existed immediately before the applicability date of this chapter.

(4) Section 29-706.03(4) shall not apply.

(5) Section 29-706.03(5) shall not apply and a court shall have the same power to expel a general partner as the court had immediately before the applicability date of this chapter.

(6) Section 29-708.01(3) shall not apply and the connection between a person's dissociation as a general partner and the dissolution of the limited partnership shall be the same as existed immediately before the applicability date of this chapter.

(d) With respect to a limited partnership that elects pursuant to subsection (a)(2) of this section to be subject to this chapter, after the election takes effect, the provisions of this chapter relating to the liability of the limited partnership's general partners to third parties shall apply:

(1) Before one year after the applicability date of this chapter, to:

(A) A third party that had not done business with the limited partnership in the year before the election took effect; and

(B) A third party that had done business with the limited partnership in the year before the election took effect only if the third party knows or has received a notification of the election; and

(2) On and after one year after applicability date of this chapter, to all third parties, but those provisions shall remain inapplicable to any obligation incurred while those provisions were inapplicable under paragraph (1)(B) of this subsection.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-701.02. history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

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*Subchapter I. General Provisions.***§ 29-801.01. Short title.**

This chapter may be cited as the “Uniform Limited Liability Company Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 101 of the Uniform Limited Company Act (2006 Act).

§ 29-801.02. Definitions.

For the purposes of this chapter, the term:

(1) “Certificate of organization”, except when referring to a right of contribution, means the certificate required by § 29-802.01. The term “certificate of organization” shall include the certificate as amended or restated.

(2) “Contribution” means any benefit provided by a person to a limited liability company:

(A) To become a member upon formation of the company and in accordance with an agreement between or among the persons that have agreed to become the initial members of the company;

(B) To become a member after formation of the company and in accordance with an agreement between the person and the company; or

(C) In the person’s capacity as a member and in accordance with the operating agreement or an agreement between the member and the company.

(3) “Distribution” means a transfer of money or other property from a limited liability company to another person on account of a transferable interest or in the person’s capacity as a member.

(A) The term includes:

(i) A redemption or other purchase by a limited liability company of a transferable interest; and

(ii) A transfer to a member in return for the member’s relinquishment of any right to participate as a member in the management or conduct of the company’s activities and affairs or to have access to records or other information concerning the company’s activities and affairs.

(B) The term does not include amounts constituting reasonable compensation for present or past services or payments made in the ordinary course of business under a bona fide retirement plan or other bona fide benefits program.

(4) “Effective”, with respect to a record required or permitted to be

delivered to the Mayor for filing under this chapter, means effective under § 29-102.03.

(5) “Foreign limited liability company” means an unincorporated entity formed under the law of a jurisdiction other than the District which would be a limited liability company if formed under the law of the District.

(6) “Manager” means a person that under the operating agreement of a manager-managed limited liability company is responsible, alone or in concert with others, for performing the management functions stated in § 29-804.07(c).

(7) “Manager-managed limited liability company” means a limited liability company that qualifies under § 29-804.07(a).

(8) “Member” means a person that has become a member of a limited liability company under § 29-804.01, or was a member in a limited liability company when the company became subject to this chapter under § 29-810.01, and has not dissociated under § 29-806.02.

(9) “Member-managed limited liability company” means a limited liability company that is not a manager-managed limited liability company.

(10) “Operating agreement” means the agreement, whether or not referred to as an operating agreement and whether oral, in a record, implied, or in any combination thereof, of all the members of a limited liability company, including a sole member, concerning the matters described in § 29-801.07. The term includes the agreement as amended or restated.

(11) “Organizer” means a person that acts under § 29-802.01 to form a limited liability company.

(12) “Transferable interest” means the right, as initially owned by a person in the person’s capacity as a member, to receive distributions from a limited liability company in accordance with the operating agreement, whether or not the person remains a member or continues to own any part of the right. The term applies to any fraction of the interest, by whomever owned.

(13) “Transferee” means a person to which all or part of a transferable interest has been transferred, whether or not the transferor is a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(2)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.05 and § 29-810.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was

adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Uniform Law: This section is based on § 102 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

In general.

Limited liability company (LLC), a separate business entity defined by statute, was not a "corporation" under court rule requiring that a

corporation appearing in the Landlord and Tenant Branch of the Superior Court must appear by counsel. *HB Management, LLC v. Brooks*, 133 WLR 691 (Super. Ct. 2005).

§ 29-801.03. Knowledge; notice.

(a) A person knows a fact when the person:

(1) Has actual knowledge of it; or

(2) Is deemed to know it under subsection (d)(1) of this section or law other than this chapter.

(b) A person has notice of a fact when the person:

(1) Has reason to know the fact from all of the facts known to the person at the time in question; or

(2) Is deemed to have notice of the fact under subsection (d)(2) of this section;

(c) A person notifies another of a fact by taking steps reasonably required to inform the other person in ordinary course, whether or not the other person knows the fact.

(d) A person that is not a member shall be deemed to:

(1) Know of a limitation on authority to transfer real property as provided in § 29-803.02(g); and

(2) Have notice of a limited liability company's:

(A) Dissolution, 90 days after a statement of dissolution under § 29-807.02(b)(2)(A) becomes effective;

(B) Termination, 90 days after a statement of termination § 29-807.02(b)(2)(F) becomes effective; and

(C) Participation in a merger, interest exchange, conversion, or domestication, 90 days after the articles of merger, interest exchange, conversion, or domestication under subchapter IX of this chapter or under Chapter 2 of this title becomes effective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(2)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-803.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (d)(2)(C).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 103 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-801.04. Nature, purpose, and duration of limited liability company.

(a) A limited liability company is an entity distinct from its member or members.

(b) A limited liability company may have any lawful purpose, regardless of whether for profit.

(c) A limited liability company shall have perpetual duration.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(2)(C), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “member or members” for “members” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 104 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-801.05. Powers.

A limited liability company shall have the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(2)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 105 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-801.06. Governing law.

The law of the District shall govern:

(1) The internal affairs of a limited liability company; and

(2) The liability of a member as member and a manager as manager for the debts, obligations, or other liabilities of a limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-801.07.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 106 of the Uniform Limited Company Act (2006 Act).

CASE NOTES

In general.

Under District of Columbia choice of law rules, law of Virginia, where limited liability company (LLC) was formed, governed suit by minority shareholder of Virginia LLC, claiming that majority shareholders engaged in im-

proper business activities; District of Columbia statute provided that law of state where LLC was formed governed formation and internal affairs and liability of members and managers. *Wright v. Herman*, 230 F.R.D. 1, 2005 U.S. Dist. LEXIS 14382 (2005).

§ 29-801.07. Operating agreement; scope, function, and limitations.

(a) Except as otherwise provided in subsections (b) and (c) of this section, the operating agreement shall govern:

(1) Relations among the members as members and between the members and the limited liability company;

(2) The rights and duties under this chapter of a person in the capacity of manager;

(3) The activities and affairs of the company and the conduct of those activities and affairs; and

(4) The means and conditions for amending the operating agreement.

(b) To the extent the operating agreement does not otherwise provide for a matter described in subsection (a) of this section, this chapter shall govern the matter.

(c) An operating agreement shall not:

(1) Vary a limited liability company's capacity under § 29-801.05 to sue and be sued in its own name;

(2) Vary the law applicable under § 29-801.06;

(3) Vary the provisions of § 29-802.04;

(4) Subject to subsections (d) through (g) of this section, eliminate the duty of loyalty, the duty of care, or any other fiduciary duty;

(5) Eliminate the contractual obligation of good faith and fair dealing under § 29-804.09(d), but the operating agreement may prescribe the standards, if not manifestly unreasonable, by which the performance of the obligation is to be measured;

(6) Unreasonably restrict the duties and rights stated in § 29-804.10;

(7) Vary the causes of dissolution specified in § 29-807.01(a)(4) and (5);

(8) Vary the requirement to wind up a limited liability company's activities and affairs as specified in § 29-807.02;

(9) Unreasonably restrict the right of a member to maintain an action under Subchapter 8 of this chapter;

(10) Restrict the right to approve a merger or domestication under § 29-809.10 or Chapter 2 of this title of a member that will have personal liability with respect to a surviving, converted, or domesticated organization;

(11) Except as otherwise provided in § 29-801.08 or 29-801.09(b), restrict the rights under this chapter of a person other than a member or manager.

(12) Vary any requirement, procedure, or other provision of this title pertaining to:

(A) Registered agents; or

(B) The Mayor, including provisions pertaining to records authorized or required to be delivered to the Mayor for filing under this chapter;

(13) Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or knowing violation of the law; or

(14) Vary the provisions of § 29-808.05, except that the operating agreement may provide that the company may not have a special litigation committee.

(17) [(15)] Vary the power of a person to dissociate under § 29-807.01, except to require that notice of dissociation be in a record.

(d) Subject to subsection (c) of this section, without limiting other terms that may be included in an operating agreement, the following rules apply:

(1) The operating agreement may specify the method by which a specific act or transaction that would otherwise violate the duty of loyalty may be authorized or ratified by one or more disinterested and independent persons after full disclosure of all material facts.

(2) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of a responsibility that the member would otherwise have under this chapter and imposes the responsibility on one or more other members, the operating agreement may, to the benefit of the member that the operating agreement relieves of the responsibility, also eliminate or limit any fiduciary duty that would have pertained to the responsibility.

(3) If not manifestly unreasonable, the operating agreement may:

(A) Restrict or eliminate the aspects of the duty of loyalty stated in § 29-804.09;

(B) Identify specific types or categories of activities and affairs that do not violate the duty of loyalty;

(C) Alter the duty of care, but may not authorize willful or intentional misconduct or knowing violation of law; and

(D) Alter or eliminate any other fiduciary duty.

(e) Repealed.

(f) Repealed.

(g) Repealed.

(h) The Superior Court shall decide, as a matter of law, any claim under subsection (c)(5) or (d)(3) of this section that a term of an operating agreement is manifestly unreasonable. The court:

(1) Shall make its determination as of the time the challenged term became part of the operating agreement and by considering only circumstances existing at that time; and

(2) May invalidate the term only if, in light of the purposes and activities and affairs of the limited liability company, it is readily apparent that:

(A) The objective of the term is unreasonable; or

(B) The term is an unreasonable means to achieve the provision's objective.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(2)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.02, § 29-801.09, § 29-802.01, and § 29-804.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 110 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-801.08. Operating agreement; effect on limited liability company and persons becoming members; preformation agreement.

(a) A limited liability company shall be bound by, and may enforce, the operating agreement, whether or not the company has itself manifested assent to the operating agreement.

(b) A person that becomes a member of a limited liability company shall be deemed to assent to the operating agreement.

(c) Two or more persons intending to become the initial members of a limited liability company may make an agreement providing that upon the formation of the company the agreement will become the operating agreement. One person intending to become the initial member of a limited liability company may assent to terms providing that, upon the formation of the company, the terms will become the operating agreement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-801.07.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 111 of the Uniform Limited Company Act (2006 Act).

§ 29-801.09. Operating agreement; effect on third parties and relationship to records effective on behalf of limited liability company.

(a) An operating agreement may specify that its amendment requires the approval of a person that is not a party to the operating agreement or the satisfaction of a condition. An amendment shall be ineffective if its adoption does not include the required approval or satisfy the specified condition.

(b) The obligations of a limited liability company and its members to a person in the person's capacity as a transferee or dissociated member shall be governed by the operating agreement. Subject only to any court order issued under § 29-805.03(b)(2) to effectuate a charging order, an amendment to the operating agreement made after a person becomes a transferee or dissociated member shall be effective with regard to any debt, obligation, or other liability of the limited liability company or its members to the person in the person's capacity as a transferee or dissociated member and is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member.

(c) If a record that has been delivered by a limited liability company to the Mayor for filing and has become effective under this chapter contains a provision that would be ineffective under § 29-801.07(c) or (d)(3) if contained in the operating agreement, the provision shall likewise be ineffective in the record.

(d) Subject to subsection (c) of this section, if a record that has been delivered by a limited liability company to the Mayor for filing and has become

effective under this chapter conflicts with a provision of the operating agreement:

(1) The operating agreement shall prevail as to members, dissociated members, transferees, and managers; and

(2) The record shall prevail as to other persons to the extent they reasonably rely on the record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(2)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07, § 29-802.01, and § 29-810.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “and is not effective to the extent the amendment imposes a new debt, obligation, or other liability on the transferee or person dissociated as a member” at the end of (b); and substituted “§ 29-801.07(c) or (d)(3)” for “§ 29-801.07(c)” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 112 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter II. Formation; Certificate of Organization, and Other Filings.

§ 29-802.01. Formation of limited liability company; certificate of organization.

(a) One or more persons may act as organizers to form a limited liability company by signing and delivering to the Mayor for filing a certificate of organization.

(b) A certificate of organization shall state:

(1) The name of the limited liability company, which shall comply with §§ 29-103.01 and 29-103.02(f);

(2) The street and mailing addresses of the initial principal office and the name and street and information required by § 29-104.04; and

(3) If the company will have one or more series that is treated as a separate entity which limits the debts, obligations, and other liabilities to the assets of a particular series as provided in the operating agreement as authorized by § 29-802.06, a statement to that effect.

(c) Subject to § 29-801.09(c), a certificate of organization may also contain statements as to matters other than those required by subsection (b) of this subsection [section] but may not vary or otherwise affect the provisions of § 29-801.07(c) in a manner inconsistent with that section. However, a statement in a certificate of organization shall not be effective as a statement of authority.

(d) A limited liability company is formed when the Mayor has filed the company’s certificate of organization and it becomes effective and at least one person becomes a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(a), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.06, § 29-801.02, § 29-802.02, and § 29-802.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (c) and (d); and repealed (e) which read “If a filed certificate of organization contains a statement as provided in subsection (b)(3) of this section, the following rules shall apply: (1) The certificate shall lapse and be void unless, within 90 days from the date the Mayor files the certificate, an organizer signs and delivers to the Mayor for filing a notice stating: (A) That the limited liability company has at least one member; and (B) The date on which a person or persons became the company’s initial member or members. (2) If an organizer complies with paragraph (1) of this subsection, a limited liability company shall be deemed formed as of the date of initial membership stated in the notice

delivered pursuant to paragraph (1) of this subsection. (3) Except in a proceeding by the District to dissolve a limited liability company, the filing of the notice described in paragraph (1) of this subsection by the Mayor shall be conclusive proof that the organizer satisfied all conditions to the formation of a limited liability company.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 201 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-802.02. Amendment or restatement of certificate of organization.

(a) A certificate of organization may be amended or restated at any time.

(b) To amend its certificate of organization, a limited liability company shall deliver to the Mayor for filing an amendment stating:

(1) The name of the company;

(2) The date of filing of its initial certificate of organization; and

(3) The changes the amendment makes to the certificate as most recently amended or restated.

(c) To restate its certificate of organization, a limited liability company shall deliver to the Mayor for filing a restatement, designated as such in its heading.

(d) If a member of a member-managed limited liability company, or a manager of a manager-managed limited liability company, knows that any information in a filed certificate of organization was inaccurate when the certificate was filed or has become inaccurate owing to changed circumstances, the member or manager shall promptly:

(1) Cause the certificate to be amended; or

(2) If appropriate, deliver to the Mayor for filing a statement of change under §§ 29-104.07 through 29-104.10 or a statement of correction under § 29-102.05.

(e) A limited liability company may amend its certificate of organization to delete the information required by § 29-802.01(b)(2) at any time after it has filed its first biennial report under § 29-102.11.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(3)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-802.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted

“initial certificate” for “certificate” in (b)(2); deleted “stating” following “heading” at the end of (c) and substituted a closing period for the semicolon; repealed (c)(1) through (c)(3); repealed (d), which read: “Subject to §§ 29-801.09(c) and 29-802.05(c), an amendment to or restatement of a certificate of organization shall be effective when filed by the Mayor.”; and redesignated former (e) and (f) as (d) and (e), respectively.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 202 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-802.03. Signing of records to be delivered for filing to Mayor.

(a) A record delivered to the Mayor for filing pursuant to this chapter must be signed as follows:

(1) Except as otherwise provided in paragraph (2) and (3) of this subsection, a record signed on behalf of a limited liability company shall be signed by a person authorized by the company.

(2) A limited liability company’s initial certificate of organization shall be signed by at least one person acting as an organizer.

(3) A record filed on behalf of a dissolved limited liability company that has no members shall be signed by the person winding up the company’s activities and affairs under § 29-807.02(c) or a person appointed under § 29-807.02(d) to wind up those activities and affairs.

(4) A statement of denial by a person under § 29-803.03 shall be signed by that person.

(5) Any other record delivered to the Mayor for filing on behalf of a person shall be signed by that person.

(b) A person that signs a record as an agent or legal representative thereby affirms that the person is authorized to sign the record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(3)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-809.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 203 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-802.04. Signing and filing pursuant to judicial order.

(a) If a person required by this chapter to sign a record or deliver a record to the Mayor for filing under this chapter does not do so, any other person that is aggrieved may petition the Superior Court to order:

- (1) The person to sign the record;
- (2) The person to deliver the record to the Mayor for filing; or
- (3) The Mayor to file the record unsigned.

(b) If a petitioner under subsection (a) of this section is not the limited liability company or foreign limited liability company to which the record pertains, the petitioner shall make the company a party to the action.

(c) A record filed under subsection (a)(3) of this section is effective without being signed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(3)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07 and § 29-802.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 204 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-802.05. Liability for inaccurate information in filed record.

(a) If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) Subject to subsection (b) of this section, a member of a member-managed limited liability company or the manager of a manager-managed limited liability company, if:

(A) The record was delivered for filing on behalf of the company; and

(B) The member or manager had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the member or manager reasonably could have:

(i) Effected an amendment under § 29-802.02;

(ii) Filed a petition under § 29-802.04; or

(iii) Delivered to the Mayor for filing a statement of change under §§ 29-104.07 through 29-104.10 or a statement of correction under § 29-102.05.

(b) To the extent that the operating agreement of a member-managed limited liability company expressly relieves a member of responsibility for maintaining the accuracy of information contained in records delivered on behalf of the company to the Mayor for filing under this chapter and imposes that responsibility on one or more other members, the liability stated in subsection (a)(2) of this section shall apply to those other members and not to the member that the operating agreement relieves of the responsibility.

(c) An individual who signs a record authorized or required to be filed under this chapter affirms under penalty of making false statements that the information stated in the record is accurate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(3)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-803.02 and § 29-809.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “making false statements” for “perjury” in (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 207 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-802.06. Series of members, managers, or interests of limited liability company.

(a) The operating agreement may establish one or more designated series of members, managers, or interests of a limited liability company, in which the members, managers, or interest holders have separate rights, powers, or duties with respect to specified property or obligations of the limited liability company.

(b) The debts, obligations, and other liabilities of a series of a limited liability company, whether arising in contract, tort, or otherwise, shall be solely the debts, obligations, and liabilities of the series and not of the limited liability company generally or any other series thereof; provided, that:

(1) Separate and distinct records are maintained for the limited liability company and each series;

(2) Assets associated with the limited liability company and each series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately in the separate and distinct records;

(3) The certificate of organization states that the debts, obligations, and other liabilities of the series are limited as provided in this subsection; and

(4) The limited liability company has delivered to the Mayor for filing and paid the requisite fee for a certificate of series designation as provided in subsection (e) of this section for each series so designated whose debts, obligations, and other liabilities are limited under this subsection.

(c) A statement in the certificate of organization in compliance with subsection (b)(3) of this section shall be notice of the limitation on liabilities of a series of a limited liability company and shall be sufficient for all purposes of subsection (b) of this section regardless of whether the limited liability company has established any series when such notice is included in the certificate or whether a series has any members.

(d) A certificate of series designation of a series of a limited liability company shall state:

(1) A different name for each series that contains the entire name of the limited liability company but otherwise complies with §§ 29-103.01 and 29-103.02(f); and

(2) A street and mailing address of the principal office and name and mailing address of a registered agent, if either is different from that specified for the limited liability company.

(e) A series of a limited liability company shall be formed when the Mayor files the certificate of series designation, unless the certificate states a delayed effective date, in which case it is formed as provided in § 29-802.01(d). The filing of the certificate by the Mayor is conclusive proof that a series has been formed.

(f) Upon the filing by the limited liability company of the report required by § 29-102.11, the Mayor shall furnish a certificate of good standing for a series of a limited liability company or a certificate of registration for a series of a foreign limited liability company.

(g) A series of a limited liability company shall be in good standing as long as the limited liability company is in good standing.

(h) The articles of organization may provide that a series be treated as a separate entity distinct from the limited liability company, other series of the limited liability company, or the members of the limited liability company.

(i) A series of a limited liability company may have any lawful purpose, regardless of whether for profit, or whether the purpose is different from that of the limited liability company or another series thereof.

(j) A series of a limited liability company shall have the capacity to sue and be sued in its own name and the power to do all things necessary or convenient to carry on its activities and affairs.

(k) The law of the District shall govern:

(1) The internal affairs of a series of a limited liability company; and

(2) The liability of a member or manager of a series as a member or manager of that series.

(l) Subject to § 29-804.07, the management of a series of a limited liability company shall be vested in the members collectively.

(m) The events causing dissociation of a member specified in § 29-806.02 shall be applied separately to a person that is a member in more than one series of a limited liability company or a member in the series and the limited liability company.

(n) Except as otherwise provided in § 29-807.01, a series of a limited liability company may be dissolved and wound up without causing the dissolution of the limited liability company or any other series thereof.

(o) A series of a limited liability company shall not engage in a transaction under subchapter IX of this chapter or Chapter 2 of this title independently of the limited liability company.

(p) The registered agent for the limited liability company shall be the registered agent for each series of the company.

(q) The management of a series of a limited liability company shall be governed by § 29-804.07.

(r) In all matters not otherwise specifically addressed in this section, this chapter shall govern a series as if the series of the limited liability company were a separate limited liability company formed under this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(3)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-802.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210, in (b)(4), substituted “delivered to the Mayor for filing” for “filed with the Mayor” and deleted the commas around “and paid the requisite fee for”; and substituted “activities and affairs” for “activities” in (j).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter III. Relations of Members and Managers to Persons Dealing with Limited Liability Company.

§ 29-803.01. No agency power of member as member.

(a) A member shall not be an agent of a limited liability company solely by reason of being a member.

(b) A person’s status as a member shall not prevent or restrict law other than this chapter from imposing liability on a limited liability company because of the person’s conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 301 of the Uniform Limited Company Act (2006 Act).

§ 29-803.02. Statement of authority.

(a) A limited liability company may deliver to the Mayor for filing a statement of authority. The statement:

(1) Shall include the name of the company and the street and mailing addresses of its principal office;

(2) With respect to any position that exists in or with respect to the company, may state the authority, or limitations on the authority, of all persons holding the position to:

(A) Execute an instrument transferring real property held in the name of the company; or

(B) Enter into other transactions on behalf of, or otherwise act for or bind, the company; and

(3) May state the authority, or limitations on the authority, of a specific person to:

(A) Execute an instrument transferring real property held in the name of the company; or

(B) Enter into other transactions on behalf of, or otherwise act for or bind, the company.

(b) To amend or cancel a statement of authority filed by the Mayor under § 29-802.05(a), a limited liability company shall deliver to the Mayor for filing an amendment or cancellation stating:

(1) The name of the company;

(2) The street and mailing addresses of the company’s principal office;

(3) The caption of the statement being amended or canceled and the date the statement being affected became effective; and

(4) The contents of the amendment or a declaration that the statement being affected is canceled.

(c) A statement of authority shall affect only the power of a person to bind a limited liability company to persons that are not members.

(d) Subject to subsection (c) of this section and § 29-801.03(d) and except as otherwise provided in subsections (f), (g), and (h) of this section, a limitation on the authority of a person or a position contained in an effective statement of authority shall not by itself [be] evidence of knowledge or notice of the limitation by any person.

(e) Subject to subsection (c), a grant of authority not pertaining to transfers of real property and contained in an effective statement of authority shall be conclusive in favor of a person that gives value in reliance on the grant, except to the extent that when the person gives value:

(1) The person has knowledge to the contrary;

(2) The statement has been canceled or restrictively amended under subsection (b) of this section; or

(3) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective.

(f) Subject to subsection (c) of this section, an effective statement of authority that grants authority to transfer real property held in the name of the limited liability company and that is recorded by certified copy in the office for recording transfers of the real property shall be conclusive in favor of a person that gives value in reliance on the grant without knowledge to the contrary, except to the extent that when the person gives value:

(1) The statement has been canceled or restrictively amended under subsection (b) of this section and a certified copy of the cancellation or restrictive amendment has been recorded in the office for recording transfers of the real property; or

(2) A limitation on the grant is contained in another statement of authority that became effective after the statement containing the grant became effective and a certified copy of the later-effective statement is recorded in the office for recording transfers of the real property.

(g) Subject to subsection (c) of this section, if a certified copy of an effective statement containing a limitation on the authority to transfer real property held in the name of a limited liability company is recorded in the office for recording transfers of that real property, all persons shall be deemed to know of the limitation.

(h) Subject to subsection (i) of this section, an effective statement of dissolution or termination shall be a cancellation of any filed statement of authority for the purposes of subsection (f) of this section and shall be a limitation on authority for the purposes of subsection (g) of this section.

(i) After a statement of dissolution becomes effective, a limited liability company may deliver to the Mayor for filing and, if appropriate, may record a statement of authority that is designated as a post-dissolution statement of

authority. The statement shall operate as provided in subsections (f) and (g) of this section.

(j) Unless earlier canceled, an effective statement of authority shall be canceled by operation of law 5 years after the date on which the statement, or its most recent amendment, becomes effective. This cancellation shall operate without need for any recording under subsection (f) or (g) of this section.

(k) An effective statement of denial shall operate as a restrictive amendment under this section and may be recorded by certified copy for the purposes of subsection (f)(1) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-801.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 302 of the Uniform Limited Company Act (2006 Act).

§ 29-803.03. Statement of denial.

A person named in a filed statement of authority granting that person authority may deliver to the Mayor for filing a statement of denial that:

- (1) Provides the name of the limited liability company and the caption of the statement of authority to which the statement of denial pertains; and
- (2) Denies the grant of authority.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-802.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 303 of the Uniform Limited Company Act (2006 Act).

§ 29-803.04. Liability of members and managers.

(a) The debts, obligations, or other liabilities of a limited liability company, whether arising in contract, tort, or otherwise shall:

- (1) Be solely the debts, obligations, or other liabilities of the company; and
- (2) Not become the debts, obligations, or other liabilities of a member or manager solely by reason of the member acting as a member or manager acting as a manager regardless of the dissolution of the company.

(b) The failure of a limited liability company to observe any particular formalities relating to the exercise of its powers or management of its activities and affairs shall not be a ground for imposing liability on the members or managers for the debts, obligations, or other liabilities of the company.

(c) With respect to members of professional limited liability companies, a member shall be personally liable and accountable only for any negligent or wrongful acts or misconduct committed by the member, or by any individual under the member's supervision and control in the rendering of professional service on behalf of a professional limited liability company organized under this chapter. A member of a professional limited liability company shall not be

personally liable and accountable merely because of the member's membership interest in the professional limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(4), 59 DCR 13171.)

Section references. — This section is referenced in § 29-807.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “regardless of the dissolution of the company” at the end of (a)(2); and substituted “activities and affairs” for “activities” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 304 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter IV. Relations of Members to Each Other and to Limited Liability Company.

§ 29-804.01. Becoming member.

(a) If a limited liability company is to have only one member upon formation, the person shall become a member as agreed by that person and the organizer of the company. That person and the organizer may be, but need not be, different persons. If different, the organizer shall act on behalf of the initial member.

(b) If a limited liability company is to have more than one member upon formation, those persons shall become members as agreed by the persons before the formation of the company. The organizer [sic] act on behalf of the persons in forming the company and may be, but need not be, one of the persons.

(c) After formation of a limited liability company, a person becomes a member:

- (1) As provided in the operating agreement;
- (2) As the result of a transaction effective under subchapter IX of this chapter or Chapter 2 of this title;
- (3) With the consent of all the members; or
- (4) As provided in § 29-807.01(a)(3).

(d) A person may become a member without acquiring a transferable interest and without making or being obligated to make a contribution to the limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (c)(4).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 401 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C.

Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.02. Form of contribution.

A contribution may consist of property transferred, services performed, or another benefit provided to the limited liability company or an agreement to transfer property, perform services, or provide another benefit to the company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 402 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.03. Liability for contributions.

(a) A person's obligation to make a contribution to a limited liability company shall not be excused by the person's death, disability, or other inability to perform personally. If a person does not fulfill an obligation, other than a monetary obligation, the person is obligated to contribute money equal to the value of the part of the contribution which has not been made, at the option of the company.

(b) The obligation of a person to make a contribution may be compromised only by consent of all members. A creditor of a limited liability company which extends credit or otherwise acts in reliance on an obligation described in subsection (a) of this section without notice of a compromise under this subsection may enforce the obligation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-805.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 403 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.04. Sharing of and right to distributions before dissolution.

(a) Any distributions made by a limited liability company before its dissolution and winding up shall be in equal shares among members and dissociated members, except to the extent necessary to comply with any transfer

effective under § 29-805.02 and any charging order in effect under § 29-805.03.

(b) A person shall have a right to a distribution before the dissolution and winding up of a limited liability company only if the company decides to make an interim distribution. A person's dissociation shall not entitle the person to a distribution.

(c) A person shall not have a right to demand or receive a distribution from a limited liability company in any form other than money. Except as otherwise provided in § 29-807.05(c), a limited liability company may distribute an asset in kind if each part of the asset is fungible with each other part and each person receives a percentage of the asset equal in value to the person's share of distributions.

(d) If a member or transferee becomes entitled to receive a distribution, the member or transferee shall have the status of, and shall be entitled to all remedies available to, a creditor of the limited liability company with respect to the distribution. However, the company's obligation to make a distribution is subject to offset for any amount owed to the company by the member or a person dissociated as a member on whose account the distribution is made.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(D), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the last sentence in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 404 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.05. Limitations on distribution.

(a) A limited liability company shall not make a distribution, including a distribution under § 29-807.05(c), if after the distribution:

(1) The company would not be able to pay its debts as they become due in the ordinary course of the company's activities and affairs; or

(2) The company's total assets would be less than the sum of its total liabilities plus, unless the operating agreement permits otherwise, the amount that would be needed if the company were to be dissolved, wound up, and terminated at the time of the distribution, to satisfy the preferential rights upon dissolution, winding up, and termination of members and transferees whose preferential rights are superior to those of persons receiving the distribution.

(b) A limited liability company may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable under the circumstances.

(c) Except as otherwise provided in subsections (e) and (f) of this section, the effect of a distribution under subsection (a) of this section shall be measured:

(1) In the case of a distribution as defined in § 29-801.02(3), as of the earlier of (i) the date money or other property is transferred or debt incurred by the company or (ii) the date the person entitled to the distribution ceases to own the interest or right being acquired by the company in return for the distribution;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs within 120 days after that date; or

(B) The payment is made, if the payment occurs more than 120 days after the distribution is authorized.

(d) A limited liability company's indebtedness to a member or transferee incurred by reason of a distribution made in accordance with this section shall be at parity with the company's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(e) A limited liability company's indebtedness, including indebtedness issued in connection with or as part of a distribution, shall not be a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest are made only to the extent that a distribution could be made to members under this section.

(f) If indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which is measured on the date the payment is made.

(g) In measuring the effect of a distribution under § 29-807.05, the liabilities of a dissolved limited liability company do not include any claim that has been disposed of under § 29-807.03, § 29-807.04, or § 29-807.07.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.06 and § 29-804.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (a), (c), and (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 405 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.06. Liability for improper distributions.

(a) Except as otherwise provided in subsection (b) of this section, if a member of a member-managed limited liability company or manager of a manager-managed limited liability company consents to a distribution made in violation of § 29-804.05 and, in consenting to the distribution, fails to comply with § 29-804.09, the member or manager shall be personally liable to the

company for the amount of the distribution that exceeds the amount that could have been distributed without the violation of § 29-804.05.

(b) To the extent the operating agreement of a member-managed limited liability company expressly relieves a member of the authority and responsibility to consent to distributions and imposes that authority and responsibility on one or more other members, the liability stated in subsection (a) of this section shall apply to the other members and not the member that the operating agreement relieves of authority and responsibility.

(c) A person that receives a distribution knowing that the distribution to that person was made in violation of § 29-804.05 shall be personally liable to the limited liability company but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under § 29-804.05.

(d) A person against which an action is commenced because the person is liable under subsection (a) of this section may implead any:

(1) Other person that is subject to liability under subsection (a) of this section and seek to compel contribution from the person; and

(2) Person that received a distribution in violation of subsection (c) of this section and seek to compel contribution from the person in the amount the person received in violation of subsection (c) of this section.

(e) An action under this section shall be barred if not commenced within 2 years after the distribution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-805.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 406 of the Uniform Limited Company Act (2006 Act).

§ 29-804.07. Management of limited liability company.

(a) A limited liability company shall be a member-managed limited liability company unless the operating agreement:

(1) Expressly provides that:

(A) The company is or will be “manager-managed”;

(B) The company is or will be “managed by managers”; or

(C) Management of the company is or will be “vested in managers”; or

(2) Includes words of similar import.

(b) In a member-managed limited liability company, the following rules shall apply:

(1) Except as otherwise expressly provided in this chapter, the management and conduct of the company shall be vested in the members.

(2) Each member shall have equal rights in the management and conduct of the company's activities and affairs.

(3) A difference arising among members as to a matter in the ordinary course of the activities and affairs of the company may be decided by a majority of the members.

(4) An act outside the ordinary course of the activities and affairs of the company may be undertaken only with the consent of all members.

(5) The operating agreement may be amended only with the consent of all members.

(c) In a manager-managed limited liability company, the following rules apply:

(1) Except as otherwise expressly provided in this chapter, any matter relating to the activities and affairs of the company shall be decided exclusively by the managers.

(2) Each manager shall have equal rights in the management and conduct of the activities and affairs of the company.

(3) A difference arising among managers as to a matter in the ordinary course of the activities and affairs of the company may be decided by a majority of the managers.

(4) The consent of all members shall be required to:

(A) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the company's property, with or without the good will, outside the ordinary course of the company's activities and affairs;

(B) Approve a merger or domestication under subchapter IX of this chapter or transaction under Chapter 2 of this title;

(C) Undertake any other act outside the ordinary course of the company's activities and affairs; and

(D) Amend the operating agreement.

(5) A manager may be chosen at any time by the consent of a majority of the members and shall remain a manager until a successor has been chosen, unless the manager at an earlier time resigns, is removed, or dies, or, in the case of a manager that is not an individual, terminates. A manager may be removed at any time by the consent of a majority of the members without notice or cause.

(6) A person need not be a member to be a manager, but the dissociation of a member that is also a manager shall remove the person as a manager. If a person that is both a manager and a member ceases to be a manager, that cessation shall not by itself dissociate the person as a member.

(7) A person's ceasing to be a manager shall not discharge any debt, obligation, or other liability to the limited liability company or members which the person incurred while a manager.

(d) An action requiring the consent of members under this chapter may be taken without a meeting, and a member may appoint a proxy or other agent to consent or otherwise act for the member by signing an appointing record, personally or by the member's agent.

(e) The dissolution of a limited liability company shall not affect the applicability of this section. However, a person that wrongfully causes dissolution of the company loses the right to participate in management as a member and a manager.

(f) This chapter shall not entitle a member to remuneration for services performed for a member-managed limited liability company, except for reasonable compensation for services rendered in winding up the activities and affairs of the company.

(g) A limited liability company shall reimburse a member for an advance to the company beyond the amount of capital the member agreed to contribute.

(h) A payment or advance made by a member which gives rise to an obligation of the limited liability company under subsection (g) of this section or under § 29-804.08(a) constitutes a loan to the company which accrues interest from the date of the payment or advance.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.02, § 29-802.06, and § 29-807.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Except as otherwise expressly provided in this chapter, the” for “The” at the beginning of (b)(1); substituted “activities and affairs” for “activities” in (b), (c) and (f); substituted “activities and affairs of the company may” for “activities of the company shall” in (b)(4); substituted “may” for “shall” in (b)(5); and added (g) and (h).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 407 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.08. Reimbursement, indemnification, advance- ment, and insurance.

(a) A limited liability company shall reimburse for any payment made, and indemnify for any debt, obligation, or other liability incurred, by a member of a member-managed company or the manager of a manager-managed company in the course of the member’s or manager’s activities on behalf of the company, if, in making the payment or incurring the debt, obligation, or other liability, the member or manager complied with the duties stated in §§ 29-804.05 and 29-804.09.

(b) A limited liability company may purchase insurance on behalf of a member or manager of the company against liability asserted against or incurred by the member or manager in that capacity or arising from that status even if, under § 29-801.07(c)(13), the operating agreement could not eliminate or limit the person’s liability to the company for the conduct giving rise to the liability.

(c) In the ordinary course of its activities and affairs, a limited liability company may advance reasonable expenses, including attorney’s fees and costs, incurred by a person in connection with a claim or demand against the person by reason of the person’s former or present capacity as a member or manager, if the person promises to repay the company if the person ultimately is determined not to be entitled to be indemnified under subsection (a) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(G), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted

"Reimbursement, indemnification, advancement," for "Indemnification" in the section heading; substituted "§ 29-801.07(c)(13)" for "§ 29-801.07(g)" in (b); and added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 408 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.09. Standards of conduct for members and managers.

(a) A member of a member-managed limited liability company owes to the company and, subject to § 29-808.01(b), the other members the duties of loyalty and care stated in subsections (b) and (c) of this section.

(b) The duty of loyalty of a member in a member-managed limited liability company shall include the duties to:

(1) Account to the company and to hold as trustee for it any property, profit, or benefit derived by the member:

(A) In the conduct or winding up of the company's activities and affairs;

(B) From a use by the member of the company's property; or

(C) From the appropriation of a limited liability company opportunity;

(2) Refrain from dealing with the company in the conduct or winding up of the company's activities and affairs as or on behalf of a person having an interest adverse to the company; and

(3) Refrain from competing with the company in the conduct of the company's activities and affairs before the dissolution of the company.

(c) The duty of care of a member of a member-managed limited liability company in the conduct or winding up of the company's activities and affairs requires the member to refrain from engaging in grossly negligent or reckless conduct, willful or intentional misconduct, or a knowing violation of law.

(d) A member in a member-managed limited liability company or a manager-managed limited liability company shall discharge the duties and obligations under this chapter or under the operating agreement and exercise any rights consistently with the contractual obligation of good faith and fair dealing.

(e) It shall be a defense to a claim under subsection (b)(2) of this section and any comparable claim in equity or at common law that the transaction was fair to the limited liability company.

(f) All of the members of a member-managed limited liability company or a manager-managed limited liability company may authorize or ratify, after full disclosure of all material facts, a specific act or transaction that otherwise would violate the duty of loyalty.

(g) A member does not violate a duty or obligation under this chapter or under the operating agreement solely because the member's conduct furthers the member's own interest.

(h) If, as permitted by subsection (f) of this section or the operating agreement, a member enters into a transaction with the limited liability

company which otherwise would be prohibited by subsection (b)(2) of this section, the member's rights and obligations arising from the transaction are the same as those of a person that is not a member.

(i) In a manager-managed limited liability company, the following rules apply:

(1) Subsections (a), (b), (c), and (e) of this section shall apply to the managers and not the members.

(2) The duty stated under subsection (b)(3) of this section shall continue until winding up is completed.

(3) Subsection (d) of this section shall apply to the members and managers.

(4) Subsections (f) and (g) of this section shall apply only to the members.

(5) A member shall not have any fiduciary duty to the company or to any other member solely by reason of being a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(H), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07, § 29-804.06, § 29-804.08, § 29-806.02, and § 29-806.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “fiduciary” preceding “duties” in (a); substituted “activities and affairs” for “activities” in (b); rewrote (c); substituted “duties and obligations” for “duties” in (d); redesignated former (g) as present (i); in present (i)(4) substituted “Subsections (f) and (g)” for “Subsection (f)”; and added present (g) and (h).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 409 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-804.10. Right of members, managers, and dissociated members to information.

(a) In a member-managed limited liability company, the following rules shall apply:

(1) On reasonable notice, a member may inspect and copy during regular business hours, at a reasonable location specified by the company, any record maintained by the company regarding the company's activities and affairs, financial condition, and other circumstances, to the extent the information is material to the member's rights and duties under the operating agreement or this chapter.

(2) The company shall furnish to each member:

(A) Without demand, any information concerning the company's activities and affairs, financial condition, and other circumstances which the company knows and is material to the proper exercise of the member's rights and duties under the operating agreement or this chapter, except to the extent the company can establish that it reasonably believes the member already knows the information; and

(B) On demand, any other information concerning the company's activities and affairs, financial condition, and other circumstances, except to the

extent the demand or information demanded is unreasonable or otherwise improper under the circumstances.

(3) The duty to furnish information under paragraph (2) of this subsection shall also apply to each member to the extent the member knows any of the information described in paragraph (2) of this subsection.

(b) In a manager-managed limited liability company, the following rules shall apply:

(1) The informational rights stated in subsection (a) of this section and the duty stated in subsection (a)(3) of this section apply to the managers and not the members.

(2) During regular business hours and at a reasonable location specified by the company, a member may obtain from the company, and inspect and copy, full information regarding the activities and affairs, financial condition, and other circumstances of the company as is just and reasonable if:

(A) The member seeks the information for a purpose material to the member's interest as a member;

(B) The member makes a demand in a record received by the company, describing with reasonable particularity the information sought and the purpose for seeking the information; and

(C) The information sought is directly connected to the member's purpose.

(3) Within 10 days after receiving a demand pursuant to paragraph (2)(B) of this subsection, the company shall in a record inform the member that made the demand:

(A) Of the information that the company will provide in response to the demand and when and where the company will provide the information; and

(B) If the company declines to provide any demanded information, the company's reasons for declining.

(4) Whenever this chapter or an operating agreement provides for a member to give or withhold consent to a matter, before the consent is given or withheld, the company shall, without demand, provide the member with all information that is known to the company and is material to the member's decision.

(c) On 10 days' demand made in a record received by a limited liability company, a dissociated member shall have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (b)(2) of this section. The company shall respond to a demand made pursuant to this subsection in the manner provided in subsection (b)(3) of this section.

(d) A limited liability company may charge a person that makes a demand under this section the reasonable costs of copying, limited to the costs of labor and material.

(e) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the operating agree-

ment or under subsection (g) of this section shall apply both to the agent or legal representative and the member or dissociated member.

(f) The rights under this section shall not extend to a person as transferee.

(g) In addition to any restriction or condition stated in its operating agreement, a limited liability company, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the company shall have the burden of proving reasonableness.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(5)(I), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07, § 29-805.04, and § 29-808.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” throughout the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 410 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter V. Transferable Interests and Rights of Transferees and Creditors.

§ 29-805.01. Nature of transferable interest.

A transferable interest is personal property.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(6)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “is” for “shall be.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 501 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-805.02. Transfer of transferable interest.

(a) Subject to § 29-805.03(f), a transfer, in whole or in part, of a transferable interest:

- (1) Is permissible;
- (2) Shall not by itself cause a member’s dissociation or a dissolution and winding up of the limited liability company’s activities and affairs; and
- (3) Subject to § 29-805.04, shall not entitle the transferee to:

(A) Participate in the management or conduct of the company's activities and affairs; or

(B) Except as otherwise provided in subsection (c) of this section, have access to records or other information concerning the company's activities and affairs.

(b) A transferee shall have the right to receive, in accordance with the transfer, distributions to which the transferor would otherwise be entitled.

(c) In a dissolution and winding up of a limited liability company, a transferee shall be entitled to an account of the company's transactions only from the date of dissolution.

(d) A transferable interest may be evidenced by a certificate of the interest issued by the limited liability company in a record, and, subject to this section, the interest represented by the certificate may be transferred by a transfer of the certificate.

(e) A limited liability company need not give effect to a transferee's rights under this section until the company has notice of the transfer.

(f) A transfer of a transferable interest in violation of a restriction on transfer contained in the operating agreement shall be ineffective as to a person having notice of the restriction at the time of transfer.

(g) Except as otherwise provided in § 29-806.02(4)(B), when a member transfers a transferable interest, the transferor shall retain the rights of a member other than the interest in distributions transferred and shall retain all duties and obligations of a member.

(h) If a member transfers a transferable interest to a person that becomes a member with respect to the transferred interest, the transferee shall be liable for the member's obligations under §§ 29-804.03 and 29-804.06(c) known to the transferee when the transferee becomes a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(6)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.04, § 29-805.03, § 29-805.04, and § 29-807.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Subject to § 29-805.03(f), a transfer" for "A transfer" in the introductory language of (a); substituted "activities and affairs" for "activities" throughout (a); and substituted "If" for "When" at the beginning of (h).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 502 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-805.03. Charging order.

(a) On application by a judgment creditor of a member or transferee, the Superior Court may enter a charging order against the transferable interest of the judgment debtor for the unsatisfied amount of the judgment. Except as otherwise provided in subsection (f) of this section, a charging order constitutes a lien on a judgment debtor's transferable interest and requires the limited

liability company to pay over to the person to which the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order in effect under subsection (a) of this section, the Superior Court may:

(1) Appoint a receiver of the distributions subject to the charging order, with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the Superior Court may foreclose the lien and order the sale of the transferable interest. Except as otherwise provided in subsection (f) of this section, the purchaser at the foreclosure sale shall obtain the transferable interest, shall not thereby become a member, and shall be subject to § 29-805.02.

(d) At any time before foreclosure under subsection (c) of this section, the member or transferee whose transferable interest is subject to a charging order under subsection (a) of this section may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the Superior Court.

(e) At any time before foreclosure under subsection (c) of this section, a limited liability company or one or more members whose transferable interests are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(f) If a court orders foreclosure of a charging order lien against the sole member of a limited liability company:

(1) The court shall confirm the sale;

(2) The purchaser at the sale obtains the member's entire interest, not only the member's transferable interest;

(3) The purchaser thereby becomes a member; and

(4) The person whose interest was subject to the foreclosed charging order is dissociated as a member.

(g) This chapter shall not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's transferable interest.

(h) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee may, in the capacity of judgment creditor, satisfy the judgment from the judgment debtor's transferable interest.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(6)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.09, § 29-804.04, § 29-805.02, § 29-806.02, and § 29-807.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted

"Except as otherwise provided in subsection (f) of this section, a charging order constitutes" for "A charging order shall constitute" in (a); substituted "Except as otherwise provided in subsection (f) of this section, the purchaser" for

“The purchaser” in (c); redesignated former (f) and (g) as present (g) and (h), respectively; and added present (f).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 503 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-805.04. Power of personal representative of deceased member.

If a member dies, the deceased member’s personal representative or other legal representative may exercise the rights of a transferee provided in § 29-805.02(c) and, for the purposes of settling the estate, the rights of a current member under § 29-804.10.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-805.02 and § 29-806.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 504 of the Uniform Limited Company Act (2006 Act).

Subchapter VI. Member’s Dissociation.

§ 29-806.01. Member’s power to dissociate; wrongful dissociation.

(a) A person may dissociate as a member at any time, rightfully or wrongfully, by withdrawing as a member by express will under § 29-806.02(1).

(b) A person’s dissociation from a limited liability company shall be wrongful only if the dissociation:

- (1) Is in breach of an express provision of the operating agreement; or
- (2) Occurs before the completion of the winding up of the company and:

(A) The person withdraws as a member by express will;

(B) The person is expelled as a member by judicial order under § 29-806.02(5) [§ 29-806.02(5)];

(C) The person is dissociated under § 29-806.02(7)(A) by becoming a debtor in bankruptcy; or

(D) In the case of a person that is not a trust (other than a business trust), an estate, or an individual, the person is expelled or otherwise dissociated as a member because it willfully dissolved or terminated.

(c) A person that wrongfully dissociates as a member shall be liable to the limited liability company and, subject to § 29-808.01, to the other members for damages caused by the dissociation. The liability shall be in addition to any other debt, obligation, or other liability of the member to the company or the other members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(7)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “completion of the winding up” for “termination” in (b)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 601 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-806.02. Events causing dissociation.

A person shall be dissociated as a member from a limited liability company when:

(1) The company has notice of the person’s express will to withdraw as a member, but, if the person specified a withdrawal date later than the date the company had notice, on that later date;

(2) An event stated in the operating agreement as causing the person’s dissociation occurs;

(3) The person is expelled as a member pursuant to the operating agreement;

(4) The person is expelled as a member by the unanimous consent of the other members if:

(A) It is unlawful to carry on the company’s activities and affairs with the person as a member;

(B) There has been a transfer of all of the person’s transferable interest in the company, other than:

(i) A transfer for security purposes; or

(ii) A charging order in effect under § 29-805.03 which has not been foreclosed;

(C) The person is a corporation and, within 90 days after the company notifies the person that it will be expelled as a member because the person has filed a certificate of dissolution or the equivalent, its charter has been revoked, or its right to conduct business has been suspended by the jurisdiction of its incorporation, the certificate of dissolution has not been revoked or its charter or right to conduct business has not been reinstated; or

(D) The person is a limited liability company or partnership that has been dissolved and whose business is being wound up;

(5) On application by the company, the person is expelled as a member by judicial order because the person has:

(A) Engaged, or is engaging, in wrongful conduct that has adversely and materially affected, or will adversely and materially affect, the company’s activities and affairs;

(B) Willfully or persistently committed, or is willfully and persistently committing, a material breach of the operating agreement or the person’s duties or obligations under § 29-804.09; or

(C) Engaged in, or is engaging, in conduct relating to the company’s activities which makes it not reasonably practicable to carry on the activities with the person as a member;

(6) In the case of a person who is an individual:

- (A) The person dies; or
- (B) In a member-managed limited liability company:
 - (i) A guardian or general conservator for the person is appointed; or
 - (ii) There is a judicial order that the person has otherwise become incapable of performing the person's duties as a member under this chapter or the operating agreement;
- (7) In a member-managed limited liability company, the person:
 - (A) Becomes a debtor in bankruptcy;
 - (B) Executes an assignment for the benefit of creditors; or
 - (C) Seeks, consents to, or acquiesces in the appointment of a trustee, receiver, or liquidator of the person or of all or substantially all of the person's property;
- (8) In the case of a person that is a testamentary or inter vivos trust or is acting as a member by virtue of being a trustee of a trust, the trust's entire transferable interest in the company is distributed;
- (9) In the case of a person that is an estate or is acting as a member by virtue of being a personal representative of an estate, the estate's entire transferable interest in the company is distributed;
- (10) In the case of a member that is not an individual, unincorporated entity, corporation, trust, or estate, the termination of the member;
- (11) The company participates in a merger under subchapter IX of this chapter or transaction under Chapter 2 of this title, if:
 - (A) The company is not the surviving entity; or
 - (B) Otherwise as a result of the merger, the person ceases to be a member;
- (12) The company participates in a domestication under subchapter IX of this chapter, if, as a result of the domestication, the person ceases to be a member;
- (13) The company participates in an interest exchange under Chapter 2 of this title and, as a result of the interest exchange, the person ceases to be a member;
- (14) The person's entire interest is transferred in a foreclosure sale under § 29-805.03(f); or
- (15) The company dissolves and completes winding up.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(7)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.02, § 29-802.06, § 29-805.02, and § 29-806.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (4)(A) and (5)(A); substituted "testamentary or inter vivos trust" for "trust" in (8); substituted "unincorporated entity" for "partnership, limited liability company" in (10); redesignated former (13) as present (15); in present (15) substituted

"dissolves and completes winding up" for "terminates"; and added present (13) and (14) and made a related change.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 602 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-806.03. Effect of person's dissociation as member.

(a) When a person is dissociated as a member of a limited liability company:

(1) The person's right to participate as a member in the management and conduct of the company's activities and affairs shall terminate;

(2) If the company is member-managed, the person's duties and obligations under § 29-804.09 end with regard to matters arising and events occurring after the person's dissociation; and

(3) Subject to § 29-805.04, subchapter IX of this chapter, and Chapter 2 of this title, any transferable interest owned by the person immediately before dissociation in the person's capacity as a member is owned by the person solely as a transferee.

(b) A person's dissociation as a member of a limited liability company shall not of itself discharge the person from any debt, obligation, or other liability to the company or the other members which the person incurred while a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(7)(C), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (a)(1); and substituted "duties and obligations under § 29-804.09" for "fiduciary duties as a member shall" in (a)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 603 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VII. Dissolution and Winding up.

§ 29-807.01. Events causing dissolution.

(a) A limited liability company is dissolved, and its activities and affairs shall be wound up, upon the occurrence of any of the following:

(1) An event or circumstance that the operating agreement states causes dissolution;

(2) The consent of all the members;

(3) The passage of 90 consecutive days during which the company has no members, unless:

(A) Consent to admit at least one specified person as a member is given by transferees owning the rights to receive a majority of distributions as transferees at the time the consent is to be effective; and

(B) At least one person becomes a member in accordance with the consent;

(4) On application by a member, the entry by Superior Court of an order dissolving the company on the grounds that:

(A) The conduct of all or substantially all of the company's activities and affairs is unlawful; or

(B) It is not reasonably practicable to carry on the company's activities and affairs in conformity with the certificate of organization and the operating agreement.

(5) On application by a member, the entry by Superior Court of an order dissolving the company on the grounds that the managers or those members in control of the company:

(A) Have acted, are acting, or will act in a manner that is illegal or fraudulent; or

(B) Have acted or are acting in a manner that is oppressive and was, is, or will be directly harmful to the applicant.

(6) The signing and filing of a statement of administrative dissolution by the Mayor under § 29-106.02.

(b) In a proceeding brought under subsection (a)(5) of this section, the Superior Court may order a remedy other than dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(8)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07, § 29-802.06, § 29-804.01, § 29-807.02, and § 29-807.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in the introductory language of (a) and twice in (a)(4); rewrote (a)(3); added (a)(6); and made related changes.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 701 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-807.02. Winding up.

(a) A dissolved limited liability company shall wind up its activities and affairs, and, except as otherwise provided in § 29-807.06, shall continue after dissolution only for the purpose of winding up.

(b) In winding up its activities and affairs, a limited liability company:

(1) Shall:

(A) Discharge the company's debts, obligations, or other liabilities, settle and close the company's activities and affairs, and marshal and distribute the assets of the company; and

(B) Deliver to the Mayor for filing a statement of dissolution stating the name of the company and that the company is dissolved; and

(2) May:

(A) Preserve the company activities and affairs and property as a going concern for a reasonable time;

(B) Prosecute and defend actions and proceedings, whether civil, criminal, or administrative;

(C) Transfer the company's property;

(D) Settle disputes by mediation or arbitration;

(E) Deliver to the Mayor for filing a statement of termination stating the name of the company and that the company is terminated; and

(F) Perform other acts necessary or appropriate to the winding up.

(c) If a dissolved limited liability company has no members, the legal representative of the last person to have been a member may wind up the activities and affairs of the company. If the person does so, the person shall have the powers of a sole manager under § 29-804.07(c) and shall be deemed to be a manager for the purposes of § 29-803.04(a)(2).

(d) If the legal representative under subsection (c) of this section declines or fails to wind up the company's activities and affairs, a person may be appointed to do so by the consent of transferees owning a majority of the rights to receive distributions as transferees at the time the consent is to be effective. A person appointed under this subsection:

(1) Has the powers of a sole manager under § 29-804.07(c) and shall be deemed to be a manager for the purposes of § 29-803.04(a)(2); and

(2) Shall promptly deliver to the Mayor for filing an amendment to the company's certificate of organization to:

(A) State that the company has no members;

(B) State that the person has been appointed pursuant to this subsection to wind up the company; and

(C) Provide the street and mailing addresses of the person.

(e) The Superior Court may order judicial supervision of the winding up of a dissolved limited liability company, including the appointment of a person to wind up the company's activities and affairs:

(1) On application of a member, if the applicant establishes good cause;

(2) On the application of a transferee, if:

(A) The company does not have any members;

(B) The legal representative of the last person to have been a member declines or fails to wind up the company's activities and affairs; and

(C) Within a reasonable time following the dissolution a person has not been appointed pursuant to subsection (d) of this section; or

(3) In connection with a proceeding under § 29-807.01(a)(4) or (5).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(8)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.03, § 29-801.07, and § 29-802.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" throughout the section; and substituted "except as otherwise provided in § 29-807.06, shall continue" for "the company shall continue" in (a).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 702 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-807.03. Known claims against dissolved limited liability company.

(a) Except as otherwise provided in subsection (d) of this section, a dissolved limited liability company may give notice of a known claim under subsection (b) of this section, which shall have the effect as provided in subsection (c) of this section.

(b) A dissolved limited liability company may in a record notify its known claimants of the dissolution. The notice shall:

- (1) Specify the information required to be included in a claim;
- (2) Provide a mailing address to which the claim is to be sent;
- (3) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is received by the claimant; and
- (4) State that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited liability company shall be barred if the requirements of subsection (b) of this section are met and:

- (1) The claim is not received by the specified deadline; or
- (2) If the claim is timely received but rejected by the company:

(A) The company causes the claimant to receive a notice in a record stating that the claim is rejected and will be barred unless the claimant commences an action against the company to enforce the claim within 90 days after the claimant receives the notice; and

(B) The claimant does not commence the required action within the 90 days.

(d) This section shall not apply to a claim based on an event occurring after the effective date of dissolution or a liability that on that date is contingent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-804.05 and § 29-807.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 703 of the Uniform Limited Company Act (2006 Act).

§ 29-807.04. Other claims against dissolved limited liability company.

(a) A dissolved limited liability company may publish notice of its dissolution and request persons having claims against the company to present them in accordance with the notice.

(b) The notice authorized by subsection (a) of this section shall:

(1) Be published at least once in a newspaper of general circulation in the District;

(2) Describe the information required to be contained in a claim and provide a mailing address to which the claim is to be sent; and

(3) State that a claim against the company is barred unless an action to enforce the claim is commenced within 3 years after publication of the notice.

(c) If a dissolved limited liability company publishes a notice in accordance with subsection (b) of this section, unless the claimant commences an action to

enforce the claim against the company within 3 years after the publication date of the notice, the claim of each of the following claimants shall be barred:

(1) A claimant that did not receive notice in a record under § 29-807.03;
 (2) A claimant whose claim was timely sent to the company but not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section or § 29-807.03 may be enforced:

(1) Against a dissolved limited liability company, to the extent of its undistributed assets; and

(2) If assets of the company have been distributed after dissolution, against a member or transferee to the extent of that person's proportionate share of the claim or of the assets distributed to the member or transferee after dissolution, whichever is less, but a person's total liability for all claims under this paragraph shall not exceed the total amount of assets distributed to the person after dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(8)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.05 and § 29-807.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “this section or § 29-807.03” for “this section” in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 704 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-807.05. Distribution of assets in winding up limited liability company's activities and affairs.

(a) In winding up its activities and affairs, a limited liability company shall apply its assets to discharge its obligations to creditors, including members that are creditors.

(b) After a limited liability company complies with subsection (a) of this section, any surplus shall be distributed in the following order, subject to any charging order in effect under § 29-805.03:

(1) To each person owning a transferable interest that reflects contributions made by a member and not previously returned, an amount equal to the value of the unreturned contributions; and

(2) In equal shares among members and dissociated members, except to the extent necessary to comply with any transfer effective under § 29-805.02.

(c) If a limited liability company does not have sufficient surplus to comply with subsection (b)(1) of this section, any surplus must be distributed among the owners of transferable interests in proportion to the value of their respective unreturned contributions.

(d) All distributions made under subsections (b) and (c) of this section must be paid in money.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(8)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.04 and § 29-804.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” in the section heading and in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 705 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-807.06. Rescinding dissolution.

(a) A limited liability company may rescind its dissolution unless a statement of termination applicable to the company becomes effective, the Superior Court has entered an order under § 29-807.01(a)(4) or (5) dissolving the company, or the Mayor has dissolved the company under § 29-106.02.

(b) Rescinding dissolution under this section requires:

(1) The consent of each member;

(2) If a statement of dissolution applicable to the limited liability company has been filed by the Mayor but has not become effective, the delivery to the Mayor for filing of a statement of withdrawal under § 29-102.04 applicable to the statement of dissolution; and

(3) If a statement of dissolution applicable to the limited liability company is effective, the delivery to the Mayor for filing of a statement of correction under § 29-102.05 stating that dissolution has been rescinded under this section.

(c) If a limited liability company rescinds its dissolution:

(1) The company resumes carrying on its activities and affairs as if dissolution never occurred;

(2) Subject to paragraph (3) of this subsection, any liability incurred by the company after the dissolution but before the rescission is effective is determined as if the dissolution never occurred; and

(3) The rights of a third party arising out of actions taken by the third party in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

(Mar. 5, 2013, D.C. Law 19-210, § 2(h)(8)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-807.02.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-807.07. Court proceedings.

(a) A dissolved limited liability company that has published a notice under § 29-807.04 may file an application with the Superior Court, or, if the principal office is not located in the District, in an appropriate court where the company’s principal office is located, for a determination of the amount and form of

security to be provided for payment of claims that are contingent, have not been made known to the company, or are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved company, are reasonably expected to arise after the effective date of dissolution. Security is not required for any claim that is or is reasonably anticipated to be barred under § 29-807.04(c).

(b) Not later than 10 days after the filing of an application under subsection (a) of this section, the dissolved limited liability company shall give notice of the proceeding to each claimant holding a contingent claim known to the company.

(c) In any proceeding under this section, the court may appoint a guardian ad litem to represent all claimants whose identities are unknown. The reasonable fees and expenses of the guardian, including all reasonable expert witness fees, must be paid by the dissolved limited liability company.

(d) A dissolved limited liability company that provides security in the amount and form ordered by the court under subsection (a) of this subsection satisfies the company's obligations with respect to claims that are contingent, have not been made known to the company, or are based on an event occurring after the effective date of dissolution. Such claims may not be enforced against a member or transferee that received assets in liquidation.

(Mar. 5, 2013, D.C. Law 19-210, § 2(h)(8)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-804.05.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VIII. Actions by Members.

§ 29-808.01. Direct action by member.

(a) Subject to subsection (b) of this section, a member may maintain a direct action in the Superior Court against another member, a manager, or the limited liability company to enforce the member's rights and otherwise protect the member's interests, including rights and interests under the operating agreement or this chapter or arising independently of the membership relationship.

(b) A member maintaining a direct action under this section shall plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-804.09 and § 29-806.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 901 of the Uniform Limited Company Act (2006 Act).

§ 29-808.02. Derivative action.

A member may maintain a derivative action in the Superior Court to enforce a right of a limited liability company if:

(1) The member first makes a demand on the other members in a member-managed limited liability company, or the managers of a manager-managed limited liability company, requesting that they cause the company to bring an action to enforce the right, and the managers or other members do not bring the action within a reasonable time; or

(2) A demand under paragraph (1) of this section would be futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-808.04 and § 29-808.06.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 902 of the Uniform Limited Company Act (2006 Act).

§ 29-808.03. Proper plaintiff.

A derivative action to enforce a right of a limited liability company may be maintained only by a person that is a member at the time the action is commenced and:

(1) Was a member when the conduct giving rise to the action occurred; or

(2) Whose status as a member was derived, by operation of law or pursuant to the terms of the operating agreement, from a person that was a member at the time the conduct giving rise to the action occurred.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(9)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor's notes. — Uniform Law: This section is based on § 903 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-808.04. Pleading.

In a derivative action under § 29-808.02, the complaint shall state with particularity:

(1) The date and content of plaintiff's demand and the response to the demand by the managers or other members; or

(2) If a demand has not been made, the reasons a demand under § 29-808.02(1) would be futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 904 of the Uniform Limited Company Act (2006 Act).

§ 29-808.05. Special litigation committee.

(a) If a limited liability company is named as or made a party in a derivative proceeding, the company may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the company appoints a special litigation committee, on motion by the committee made in the name of the company, except for good cause shown, the Superior Court shall stay discovery for the time reasonably necessary to permit the committee to make its investigation. This subsection shall not prevent the court from enforcing a person's right to information under § 29-804.10 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

(c) A special litigation committee may be appointed:

(1) In a member-managed limited liability company:

(A) By the consent of a majority of the members not named as defendants or plaintiffs in the proceeding; and

(B) If all members are named as defendants or plaintiffs in the proceeding, by a majority of the members named as defendants; or

(2) In a manager-managed limited liability company:

(A) By a majority of the managers not named as defendants or plaintiffs in the proceeding; and

(B) If all managers are named as defendants or plaintiffs in the proceeding, by a majority of the managers named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited liability company that the proceeding:

(1) Continue under the control of the plaintiff;

(2) Continue under the control of the committee;

(3) Be settled on terms approved by the committee; or

(4) Be dismissed.

(e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the Superior Court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court

shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to proceed under the direction of the plaintiff.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(9)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-801.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “and shall serve each party with a copy of the determination and report” for “giving notice to the plaintiff” in (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 905 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-808.06. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action under § 29-808.02, whether by judgment, compromise, or settlement, belong to the limited liability company and not to the plaintiff; and

(2) If the plaintiff receives any proceeds, the plaintiff shall remit them immediately to the company.

(b) If a derivative action under § 29-808.02 is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses, including reasonable attorney’s fees and costs, from the recovery of the limited liability company.

(c) A derivative action on behalf of a limited partnership may not be voluntarily dismissed or settled without the Superior Court’s approval.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(h)(9)(C), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-801.02.

Editor’s notes. — Uniform Law: This section is based on § 906 of the Uniform Limited Company Act (2006 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter IX. Merger and Domestication.

§ 29-809.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Constituent company” means a limited liability company that is a party to a merger.

(2) “Domesticated company” means the company that exists after a domesticating foreign limited liability company or limited liability company effects a domestication pursuant to §§ 29-809.06 through 29-809.09.

(3) “Domesticating company” means the company that effects a domestication pursuant to §§ 29-809.06 through 29-809.09.

(4) “Governing statute” means the statute that governs the internal affairs of a foreign limited liability company or limited liability company.

(5) “Personal liability” means liability for a debt, obligation, or other liability of a foreign limited liability company or limited liability company which is imposed on a person that co-owns, has an interest in, or is a member of the company by the:

(A) Governing statute solely by reason of the person co-owning, having an interest in, or being a member of the company; or

(B) Company’s certificate or articles of organization and operating agreement, or comparable records as provided in its governing statute, under a provision of the governing statute authorizing those documents to make one or more specified persons liable for all or specified debts, obligations, or other liabilities of the company solely by reason of the person or persons co-owning, having an interest in, or being a member of the company.

(6) “Surviving company” means a foreign limited liability company or limited liability company into which one or more other foreign limited liability companies or limited liability companies are merged whether the company preexisted the merger or was created by the merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 1001 of the Uniform Limited Company Act (2006 Act).

§ 29-809.02. Merger.

(a) A limited liability company may merge with one or more other constituent companies pursuant to this section, §§ 29-809.03 through 29-809.05, and a plan of merger, if:

(1) The governing statute of each of the other companies authorizes the merger;

(2) The merger is not prohibited by the law of a jurisdiction that enacted any of the governing statutes; and

(3) Each of the other companies complies with its governing statute in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name and form of each constituent company;

(2) The name and form of the surviving company and, if the surviving company is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent company into any combination of money, interests in the surviving company, and other consideration;

(4) If the surviving company is to be created by the merger, the surviving company’s organizational documents that are proposed to be in a record; and

(5) If the surviving company is not to be created by the merger, any

amendments to be made by the merger to the surviving company's certificate of organization and any amendments to its operating agreement that are, or are proposed to be, in a record.

(c) A merger in which a limited liability company and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1002 of the Uniform Limited Company Act (2006 Act).

§ 29-809.03. Action on plan of merger by constituent company.

(a) A plan of merger shall be consented to by all the members of a constituent company.

(b) Subject to any contractual rights, after a merger is approved, and at any time before articles of merger are delivered to the Mayor for filing under § 29-809.04, a constituent company may amend the plan or abandon the merger:

(1) As provided in the plan; or

(2) Except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1003 of the Uniform Limited Company Act (2006 Act).

§ 29-809.04. Filings required for merger; effective date.

(a) After each constituent company has approved a merger, articles of merger shall be signed on behalf of each constituent company, as provided in § 29-802.03(a).

(b) Articles of merger under this section shall include:

(1) The name of each constituent company and the jurisdiction of its governing statute;

(2) The name of the surviving company, the jurisdiction of its governing statute, and, if the surviving company is created by the merger, a statement to that effect;

(3) The date the merger is effective under the governing statute of the surviving company;

(4) If the surviving company is to be created by the merger, the company's certificate of organization;

(5) If the surviving company preexists the merger, any amendments provided for in the plan of merger for its certificate of organization;

(6) A statement as to each constituent company that the merger was approved as required by the company's governing statute;

(7) If the surviving company is a foreign limited liability company not authorized to do business in the District, the street and mailing addresses of an office that the Mayor may use for the purposes of § 29-809.05(b); and

(8) Any additional information required by the governing statute of any constituent company.

(c) Each constituent company shall deliver the articles of merger for filing with the Mayor.

(d) A merger shall be effective under this chapter upon the later of:

(1) Compliance with subsection (c) of this section; or

(2) Subject to § 29-802.05(c) and subchapter II of Chapter 2 of this title, as specified in the articles of merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1004 of the Uniform Limited Company Act (2006 Act).

§ 29-809.05. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving company shall continue or come into existence;

(2) Each constituent company that merges into the surviving company shall cease to exist as a separate entity;

(3) All property owned by each constituent company that ceases to exist shall vest in the surviving company;

(4) All debts, obligations, or other liabilities of each constituent company that ceases to exist shall continue as debts, obligations, or other liabilities of the surviving company;

(5) An action or proceeding pending by or against any constituent company that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent company that ceases to exist shall vest in the surviving company;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger take effect; and

(8) Except as otherwise agreed, if a constituent company ceases to exist, the merger shall not dissolve the limited liability company for the purposes of subchapter VII of this chapter;

(9) If the surviving company is created by the merger, the certificate of organization shall become effective; and

(10) If the surviving company preexisted the merger, any amendments provided for in the articles of merger for its certificate or organization shall become effective.

(b) A surviving company that is a foreign limited liability company consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or

other liability owed by a constituent company, if before the merger the constituent company was subject to suit in the District on the debt, obligation, or other liability. A surviving company that is a foreign limited liability company and not authorized to do business in the District may be served with process for the purposes of enforcing a debt, obligation, or other liability under this subsection in the same manner and with the same consequences as in § 29-104.12.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1005 of the Uniform Limited Company Act (2006 Act).

§ 29-809.06. Domestication.

(a) A foreign limited liability company may become a limited liability company pursuant to this section, §§ 29-809.07 through 29-809.09, and a plan of domestication, if:

(1) The foreign limited liability company's governing statute authorizes the domestication;

(2) The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) The foreign limited liability company complies with its governing statute in effecting the domestication.

(b) A limited liability company may become a foreign limited liability company pursuant to this section, §§ 29-809.07 through 29-809.09, and a plan of domestication, if:

(1) The foreign limited liability company's governing statute authorizes the domestication;

(2) The domestication is not prohibited by the law of the jurisdiction that enacted the governing statute; and

(3) The foreign limited liability company complies with its governing statute in effecting the domestication.

(c) A plan of domestication shall be in a record and shall include:

(1) The name of the domesticating company before domestication and the jurisdiction of its governing statute;

(2) The name of the domesticated company after domestication and the jurisdiction of its governing statute;

(3) The terms and conditions of the domestication, including the manner and basis for converting interests in the domesticating company into any combination of money, interests in the domesticated company, and other consideration; and

(4) The organizational documents of the domesticated company that are, or are proposed to be, in a record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.01 and § 29-809.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1010 of the Uniform Limited Company Act (2006 Act).

§ 29-809.07. Action on plan of domestication by domesticating limited liability company.

(a) A plan of domestication shall be consented to:

(1) By all the members if the domesticating company is a limited liability company; and

(2) As provided in the domesticating company's governing statute, if the company is a foreign limited liability company.

(b) Subject to any contractual rights, after a domestication is approved, and at any time before articles of domestication are delivered to the Mayor for filing under § 29-809.08, a domesticating limited liability company may amend the plan or abandon the domestication:

(1) As provided in the plan; or

(2) Except as otherwise prohibited in the plan, by the same consent as was required to approve the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.06.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1011 of the Uniform Limited Company Act (2006 Act).

§ 29-809.08. Filings required for domestication; effective date.

(a) After a plan of domestication is approved, a domesticating company shall deliver to the Mayor for filing articles of domestication, which shall include:

(1) A statement, as the case may be, that the company has been domesticated from or into another jurisdiction;

(2) The name of the domesticating company and the jurisdiction of its governing statute;

(3) The name of the domesticated company and the jurisdiction of its governing statute;

(4) The date the domestication is effective under the governing statute of the domesticated company;

(5) If the domesticating company was a limited liability company, a statement that the domestication was approved as required by this chapter;

(6) If the domesticating company was a foreign limited liability company, a statement that the domestication was approved as required by the governing statute of the other jurisdiction; and

(7) If the domesticated company was a foreign limited liability company not authorized to do business in the District, the street and mailing addresses of an office that the Mayor may use for the purposes of § 29-809.09(b).

(b) A domestication shall be effective:

(1) When the certificate of organization takes effect, if the domesticated company is a limited liability company; and

(2) According to the governing statute of the domesticated company, if the domesticated organization is a foreign limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.07.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1012 of the Uniform Limited Company Act (2006 Act).

§ 29-809.09. Effect of domestication.

(a) When a domestication takes effect:

(1) The domesticated company shall be for all purposes the company that existed before the domestication;

(2) All property owned by the domesticating company shall remain vested in the domesticated company;

(3) All debts, obligations, or other liabilities of the domesticating company shall continue as debts, obligations, or other liabilities of the domesticated company;

(4) An action or proceeding pending by or against a domesticating company may be continued as if the domestication had not occurred;

(5) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of the domesticating company shall remain vested in the domesticated company;

(6) Except as otherwise provided in the plan of domestication, the terms and conditions of the plan of domestication shall take effect; and

(7) Except as otherwise agreed, the domestication shall not dissolve a domesticating limited liability company for the purposes of subchapter VII of this chapter.

(b) A domesticated company that is a foreign limited liability company consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by the domesticating company, if, before the domestication, the domesticating company was subject to suit in the District on the debt, obligation, or other liability. A domesticated company that is a foreign limited liability company and not authorized to do business in the District may be served with process as provided in § 29-404.12 for purposes of enforcing a debt, obligation, or other liability under this subsection. Service on the Mayor under this subsection shall be made in the same manner and has the same consequences as in § 29-104.12.

(c) If a limited liability company has adopted and approved a plan of domestication under § 29-809.06 providing for the company to be domesticated in a foreign jurisdiction, a statement surrendering the company's certificate of organization shall be delivered to the Mayor for filing setting forth:

- (1) The name of the company;
- (2) A statement that the certificate of organization is being surrendered in connection with the domestication of the company in a foreign jurisdiction;
- (3) A statement the domestication was approved as required by this chapter; and
- (4) The jurisdiction of formation of the domesticated foreign limited liability company.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-809.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1013 of the Uniform Limited Company Act (2006 Act).

§ 29-809.10. Restrictions on approval of mergers and domestications.

(a) If a member of a constituent or domesticating limited liability company will have personal liability with respect to a surviving or domesticated organization, approval or amendment of a plan of merger or domestication shall be ineffective without the consent of the member, unless the:

- (1) Company's operating agreement provides for approval of a merger or domestication with the consent of fewer than all the members; and
- (2) Member has consented to the provision of the operating agreement.

(b) A member does not give the consent required by subsection (a) of this section merely by consenting to a provision of the operating agreement that permits the operating agreement to be amended with the consent of fewer than all the members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-801.07.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1014 of the Uniform Limited Company Act (2006 Act).

§ 29-809.11. Subchapter not exclusive.

This subchapter shall not preclude a limited liability company from being merged under law other than this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1015 of the Uniform Limited Company Act (2006 Act).

Subchapter X. Transition Provisions.

§ 29-810.01. Application to existing relationships.

(a) This chapter shall apply to a limited liability company formed after the applicability date of this chapter and to a limited liability company that elects, as provided by subsection (c) of this section, to be governed by this chapter.

(b) Subject to subsection (d) of this section, on and after one year after the applicability date of this chapter, this chapter shall govern all limited liability companies, whenever formed.

(c) Subject to subsection (d) of this section, after the applicability date of this chapter, a limited liability company voluntarily may elect, in the manner provided in its operating agreement or by law for amending the operating agreement, to be subject to this chapter.

(d) For the purposes [of] applying this chapter to a limited liability company formed before the applicability date of this chapter:

(1) The company's articles of organization shall be deemed to be the company's certificate of organization; and

(2) For the purposes of applying § 29-801.02(10) and subject to § 29-801.09(d), language in the company's articles of organization designating the company's management structure operates as if that language were in the operating agreement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-801.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1104 of the Uniform Limited Company Act (2006 Act).

CHAPTER 9. GENERAL COOPERATIVE ASSOCIATIONS.

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| <p>Sec.</p> <p>29-901. Short title.</p> <p>29-902. Definitions.</p> <p>29-903. Incorporators.</p> <p>29-904. Purposes for incorporation.</p> <p>29-905. Powers of association.</p> <p>29-906. Articles of incorporation — Contents.</p> <p>29-907. Articles of incorporation — Amendments; vote required for proposal and approval of amendments.</p> <p>29-908. Bylaws; adoption, amendment, or repeal.</p> <p>29-909. Bylaws — Contents.</p> <p>29-910. Meetings; regular and special.</p> <p>29-911. Meetings; regular and special — Notice.</p> <p>29-912. Meetings; regular and special — Units of membership.</p> <p>29-913. Voting — Number permitted by each member.</p> <p>29-914. Voting — Proxy prohibited.</p> <p>29-915. Voting — By mail or by electronic mail.</p> <p>29-916. Voting provisions — Application to voting by mail or electronic mail.</p> <p>29-917. Voting provisions — Application to voting by delegates.</p> <p>29-918. Directors.</p> <p>29-919. Officers.</p> <p>29-920. Removal of directors and officers; vote required for approval; vacancies.</p> <p>29-921. Referendum on acts of directors.</p> <p>29-922. Limitations upon the return on capital.</p> | <p>Sec.</p> <p>29-923. Eligibility and admission to membership.</p> <p>29-924. Subscribers.</p> <p>29-925. Share and membership certificates; issuance and contents.</p> <p>29-926. Transfer of shares and memberships; withdrawal.</p> <p>29-927. Share and membership certificates — Recall.</p> <p>29-928. Share and membership certificates — Exemption for attachment, execution and garnishment.</p> <p>29-929. Liability of members.</p> <p>29-930. Expulsion of members; procedure; purchase of holdings.</p> <p>29-931. Allocation and distribution of net savings.</p> <p>29-932. Bonding of officers and employees.</p> <p>29-933. Audit.</p> <p>29-934. Dissolution; methods; vote required for approval; distribution of assets.</p> <p>29-935. Existing cooperative groups; acceptance of act; filing and recordation of amended articles and bylaws.</p> <p>29-936. Foreign corporations and associations; admission to do business.</p> <p>29-937. Compliance with chapter; not in restraint of trade.</p> <p>29-938. Chapter 3 of this title applicable to associations.</p> <p>29-939. Taxation; annual license fee.</p> |
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§ 29-901. Short title.

This chapter may be cited as the “General Cooperative Association Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Cross references. — Homestead housing preparation program, “condominium or unit owners association” defined, see § 42-2103.

Rental housing conversions and sales, “cooperative” and “Cooperative Act” defined, see § 42-3401.03.

Section references. — This section is referenced in § 42-3401.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-902. Definitions.

For the purposes of this chapter, the term:

- (1) “Articles” means the articles of incorporation referred to in § 29-906.
- (2) “Association” means a group enterprise incorporated under this chapter. An association shall be treated as a nonprofit corporation for purposes of taxation or securities regulation under the law of the District.
- (3) “Cooperative basis” as applied to any incorporated or unincorporated

group referred to in §§ 29-905(7), 29-913, 29-923, 29-935, and 29-936 means that:

(A) Each member has one vote only, except as may be altered in the articles or bylaws by provision for:

(i) Voting by member organizations; or

(ii) Allocation of votes in a cooperative housing association proportionate to the share of ownership in the association or on the basis of one vote for each unit;

(B) The maximum rate at which any return is paid on share or membership capital is limited to not more than 8% per annum; and

(C) The net savings after payment, if any, of this limited return on capital and after making provision for such separate funds as may be required or specifically permitted by statute, articles, or bylaws, or allocated or distributed to member patrons, or to all patrons, in proportion to their patronage, be retained by the enterprise, for the actual or potential expansion of its services or the reduction of its charges to the patrons or for other purposes not inconsistent with its nonprofit character.

(4) "Member" means a member in a nonshare association or share association.

(5) "Net savings" means the total income of an association minus the costs of operation.

(6) "Savings returns" means the amount returned to the patrons in proportion to their patronage or otherwise in accordance with § 29-931.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-903. Incorporators.

Any 5 or more natural persons or 2 or more associations may incorporate in the District under this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-902.
1981 Ed., § 29-1102.
1973 Ed., § 29-802.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-904. Purposes for incorporation.

An association may be incorporated under this chapter to engage in any one or more lawful mode or modes of acquiring, producing, building, operating, manufacturing, furnishing, exchanging, or distributing any type or types of property, commodities, goods, or services for the primary and mutual benefit of the patrons of the association, or their patrons, if any, as ultimate consumers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-903.
1981 Ed., § 29-1103.
1973 Ed., § 29-803.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

Chapter governing cooperative associations clearly included housing cooperatives within its coverage, and thus foreign, nonprofit, cooperative corporation was bound by prohibition of

proportional voting in qualified District of Columbia cooperatives. D.C. Code 1981, §§ 29-1101 et seq., 29-1113. *Watergate South, Inc. v. Duty*, 464 A.2d 141, 1983 D.C. App. LEXIS 442 (1983).

§ 29-905. Powers of association.

An association shall have the capacity to act possessed by individuals and the authority to do anything required or permitted by this chapter. In addition, an association has the power to:

- (1) Continue as a corporation for the time specified in its articles;
- (2) Have a corporate seal and to alter the same at pleasure;
- (3) Sue and be sued in its corporate name;
- (4) Make bylaws for the government and regulation of its affairs;
- (5) Acquire, own, hold, sell, lease, pledge, mortgage, or otherwise dispose of any property incident to its purposes and activities and affairs;
- (6)(A) Own and hold:
 - (i) Membership in, and share capital, of other associations and any other corporations;
 - (ii) Any types of bonds or other obligations; and
- (B) While the owner of the items set forth in subparagraph (A) of this paragraph, to exercise all the rights of ownership;
- (7) Borrow money, contract debts, and make contracts, including agreements of mutual aid or federation with other associations, other groups organized on a cooperative basis, and other nonprofit groups;
- (8) Conduct its affairs within or without the District;
- (9) Exercise, in addition, any power granted to ordinary business corporations, except those powers inconsistent with this chapter; and
- (10) Exercise all powers not inconsistent with this chapter which may be necessary, convenient, or expedient for the accomplishment of its purposes.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(2), 59 DCR 13171.)

Section references. — This section is referenced in § 29-902.

Prior Codifications. — 2001 Ed., § 29-904.
1981 Ed., § 29-1104.
1973 Ed., § 29-804.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities and affairs” for “activities” in (5).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code

Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

ANALYSIS

Challenges to powers.
Property.

Challenges to powers.

Tenant, in defending against proceeding by purchaser of a cooperative apartment for possession of apartment cannot collaterally attack the creation and existence of the cooperative as to corporation. *Glennon v. Butler*, 66 A.2d 519, 1949 D.C. App. LEXIS 204 (Cr.App. 1949).

Alleged want of capacity of cooperative as a corporation to own and dispose of real estate

can only be asserted by the state, and cannot be asserted by parties to a private dispute. D.C. Code 1940, §§ 29-201, 29-803, 29-804(5). *Glennon v. Butler*, 66 A.2d 519, 1949 D.C. App. LEXIS 204 (Cr.App. 1949).

Property.

The statute denying to corporations authority to buy, sell, or deal in real estate, does not apply to cooperative association as a corporation. D.C. Code 1940, §§ 29-201, 29-803, 29-804(5). *Glennon v. Butler*, 66 A.2d 519, 1949 D.C. App. LEXIS 204 (Cr.App. 1949).

§ 29-906. Articles of incorporation — Contents.

(a) Articles of incorporation shall be signed by each of the incorporators and acknowledged by at least 3 of them if individuals, and by the presidents and secretaries, if associations, before an officer authorized to take acknowledgments.

(b) Within the limitations of this chapter, the articles shall contain:

(1) A statement as to the purpose or purposes for which the association is formed;

(2) The name of the association;

(3) The term of existence of the association, which may be perpetual;

(4) The location and address of the principal office of the association;

(5) The information required by § 29-104.04;

(6) The names and addresses of the incorporators of the association;

(7) The names and addresses of the directors who will manage the affairs of the association for the first year, unless sooner changed by the members;

(8) A statement of whether the association is organized with or without shares, and the number of shares or memberships subscribed for;

(9) If organized with shares, a statement of the amount of authorized capital, the number and types of shares and the par value thereof (which may be placed at any figure), and the rights, preferences, and restrictions of each type of share;

(10)(A) The minimum number or value of shares which must be owned to qualify for membership; and

(B) If organized without shares, a statement of whether the property rights of members must be equal or unequal, and if unequal, the rule by which their rights shall be determined;

(11) The maximum amount or percentage of capital which may be owned or controlled by any member, including a statement of whether or not each member is limited to a single share, and whether such single shares are of various par values; and

(12) The method by which any surplus, upon dissolution of the association, is distributed, in conformity with the requirements of § 29-934 for division of the surplus.

(c) The articles may also contain any other provisions, not inconsistent with law or with this chapter, for the conduct of the association's affairs.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-101.06 and § 29-902.

1973 Ed., § 29-805.

Prior Codifications. — 2001 Ed., § 29-905. 1981 Ed., § 29-1105.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-907. Articles of incorporation — Amendments; vote required for proposal and approval of amendments.

(a) Amendments to the articles may be proposed by a $\frac{2}{3}$ vote of the board of directors or by petition of 10% of the association's members. The secretary shall send notice of the meeting to consider an amendment at least 30 days in advance to each member at the member's last known address, accompanied by the full text of the proposal and by that part of the articles to be amended. Two-thirds of the members voting may adopt the amendment and when verified by the president and secretary, it shall be filed and recorded with the Mayor within 30 days of its adoption, and a fee established by the Mayor by rule shall be paid.

(b) If the amendment is to alter the preferences of outstanding shares of any type, or to authorize the issuance of shares having preferences superior to outstanding shares of any type, the vote of $\frac{2}{3}$ of the members owning such outstanding shares affected by the change shall also be required for the adoption of the amendment. If the amendment is to alter the rule by which members' property rights in a nonshare association are determined, a vote of $\frac{2}{3}$ of the entire membership shall be required.

(c) The amount of capital and the number and par value of shares may be diminished or increased by amendment of the articles, but the capital shall not be diminished below the amount of paid-up capital existing at the time of amendment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-907. 1981 Ed., § 29-1107. 1973 Ed., § 29-807.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-908. Bylaws; adoption, amendment, or repeal.

Bylaws shall be adopted, amended, or repealed by at least a majority vote of the members voting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-908. 1981 Ed., § 29-1108. 1973 Ed., § 29-808.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-909. Bylaws — Contents.

The bylaws may, within the limitations of this chapter, provide for the:

- (1) Method and terms of admission to membership and the disposal of members' interests on cessation of membership for any reason;
- (2) Time, place, and manner of calling and conducting meetings;
- (3) Number or percentage of the members constituting a quorum;
- (4)(A) Number, qualifications, powers, duties, term of office, and manner, time, and vote for election, of directors and officers; and
- (B) Division or classification, if any, of directors to provide for rotating or overlapping terms;
- (5) Compensation, if any, of the directors, and the number of directors necessary to constitute a quorum;
- (6) Method of distributing the net savings; or
- (7) Various discretionary provisions of this chapter as well as other provisions incident to the purposes and activities and affairs of the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(3), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-909. 1981 Ed., § 29-1109. 1973 Ed., § 29-809.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities" in (7).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

In general.

The housing cooperative instruments, which include the bylaws, constitute a contract governing the legal relationship between the cooperative association and the unit owners. *Willens v. 2720 Wis. Ave. Coop. Ass'n*, 844 A.2d 1126, 2004 D.C. App. LEXIS 67 (2004).

Incorporated cooperative association's by-law

providing that board of directors' selection of counsel shall be subject to approval of membership violated statute, and such by-law did not preclude counsel from recovering for services rendered under contract approved by the board. *D.C. Code 1951, §§ 29-818, 29-821. Capitol Cab. Co-op. Ass'n, Inc. v. Darden*, 169 A.2d 463, 1961 D.C. App. LEXIS 211 (Cr.App. 1961).

§ 29-910. Meetings; regular and special.

Regular meetings of members shall be held as prescribed in the bylaws, but shall be held at least once a year. Special meetings may be demanded by a majority vote of the directors or by written petition of at least 10% of the membership, in which case it shall be the duty of the secretary to call such meeting to take place within 30 days after the demand. Regular or special meetings, including meetings by units as hereinafter provided, may be held inside or outside the District as the articles may prescribe. If authorized by the articles or bylaws, members may participate in regular and special meetings of members remotely in accordance with § 29-305.09.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(4), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-910. 1981 Ed., § 29-1110.

1973 Ed., § 29-810.

Effect of amendments. — The 2013

amendment by D.C. Law 19-210 added the last sentence.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-911. Meetings; regular and special — Notice.

The secretary shall give notice of the time and place of meetings by sending a notice thereof to each member at the member's last known address not less than the number of days in advance of the meeting specified in the bylaws. In case of a special meeting, the notice shall specify the purpose for which the meeting is called. If authorized by the articles or bylaws, the notice may be sent by electronic mail in accordance with § 29-305.09.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(5), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-911. 1981 Ed., § 29-1111.

1973 Ed., § 29-811.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the last sentence.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-912. Meetings; regular and special — Units of membership.

The articles or bylaws may provide for the holding of meetings by units of the membership and may provide for a method of transmitting the votes there cast to the central meeting, or for a method of representation by the election of delegates to the central meeting, or for a combination of both of these methods. If authorized by the articles or the bylaws, members may participate in such meetings remotely in accordance with § 29-305.09.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(6), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-912. 1981 Ed., § 29-1112.

1973 Ed., § 29-812.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the last sentence.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-913. Voting — Number permitted by each member.

(a) Each member of an association shall have only one vote, except as may be altered in the articles or bylaws for:

(1) Voting by member organizations; or

(2) Allocation of votes in a cooperative housing association proportionate

to the share of ownership in the association or on the basis of one vote for each unit.

(b) A voting agreement or other device to evade the requirements of this section shall not be enforceable.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-902 and § 29-925.

Prior Codifications. — 2001 Ed., § 29-913. 1981 Ed., § 29-1113.

1973 Ed., § 29-813.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Foreign corporations.
Validity.

Foreign corporations.

District of Columbia properly denied foreign, nonprofit, cooperative corporation with proportional voting a certificate of authority to do business in the District. D.C. Code 1981, §§ 29-583(a), 29-1113. *Watergate South, Inc. v. Duty*, 464 A.2d 141, 1983 D.C. App. LEXIS 442 (1983).

Chapter governing cooperative associations clearly included housing cooperatives within its coverage, and thus foreign, nonprofit, cooperative corporation was bound by prohibition of

proportional voting in qualified District of Columbia cooperatives. D.C. Code 1981, §§ 29-1101 et seq., 29-1113. *Watergate South, Inc. v. Duty*, 464 A.2d 141, 1983 D.C. App. LEXIS 442 (1983).

Validity.

Adoption by District of Columbia of a “one-man, one-vote” cooperative policy did not result in any constitutional deprivation, even though it totally prevented foreign, nonprofit cooperative corporation with proportional voting from doing business in District. D.C. Code 1981, §§ 29-504, 29-1101 et seq., 29-1113. *Watergate South, Inc. v. Duty*, 464 A.2d 141, 1983 D.C. App. LEXIS 442 (1983).

§ 29-914. Voting — Proxy prohibited.

A member shall not vote by proxy.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-925.

Prior Codifications. — 2001 Ed., § 29-914. 1981 Ed., § 29-1114.

1973 Ed., § 29-814.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

Waiver of claim.

Personal representative waived claim that meeting of cooperative apartment association was invalid for want of a quorum as required by cooperative’s bylaws due to members voting by

proxy, which was prohibited by statute, because her attorney was present, participated as counsel, and failed at that time to raise issue of whether quorum was present. *Pellerin v.*, 980 A.2d 1234 (1915).

§ 29-915. Voting — By mail or by electronic mail.

(a) The articles or bylaws may provide for either or both of the following types of voting by mail or by electronic mail in accordance with § 29-305.09[.]

(1) That the secretary shall send to the members a copy of any proposal scheduled to be offered at a meeting, together with the notice of the meeting, and that the mail votes or the electronic mail votes by the members shall be

counted together with those cast at the meeting if the mail votes or the electronic mail votes are returned to the association within a specified number of days; and

(2) That the secretary shall send to any member absent from a meeting an exact copy of the proposal acted upon at the meeting, and that the mail vote or the electronic mail vote of the member upon such proposal, if returned within a specified number of days, shall be counted together with the votes cast at the meeting.

(b) The articles or bylaws may also determine whether and to what extent the mail votes or the electronic mail votes shall be counted in computing a quorum.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(7), 59 DCR 13171.)

Section references. — This section is referenced in § 29-925.

Prior Codifications. — 2001 Ed., § 29-915.
1981 Ed., § 29-1115.
1973 Ed., § 29-815.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “or by electronic mail” at the end of the section heading; added “or by electronic mail in accordance with § 29-305.09” in the introductory language of (a); and added “or the electronic mail vote”

and “or the electronic mail votes” throughout (a) and (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-916. Voting provisions — Application to voting by mail or electronic mail.

If the articles or bylaws have provided for voting by mail or by electronic mail, any provision of this chapter referring to votes cast by the members must be construed to include the votes cast by mail or by electronic mail.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(8), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-916.
1981 Ed., § 29-1116.
1973 Ed., § 29-816.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-917. Voting provisions — Application to voting by delegates.

If an association has provided for voting by delegates, any provision of this chapter referring to votes cast by the members shall apply to votes cast by delegates, but this shall not permit delegates to vote by mail or electronic mail.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(9), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-917. 1981 Ed., § 29-1117. 1973 Ed., § 29-817.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “or electronic mail” at the end of the section.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-918. Directors.

(a) An association shall be managed by a board of not less than 5 directors, who are elected for a term fixed in the bylaws, not to exceed 3 years, by and from the members of the association and hold office until their successors are elected or until removed. The bylaws of an association that provides multi-family cooperative housing for low and moderate income individuals who are receiving assistance through one or more of the federal programs described in § 47-1002(20) may provide that one or more of the directors, but not a majority of the directors, may be appointed by a nonprofit sponsoring organization which helped create the association so as to maintain a continuing and stabilizing interest in its well-being; provided, that the sponsoring organization shall not appoint any directors after the association has been established for 10 years. The director or directors appointed by the sponsoring organization need not be members of the association. Vacancies in the board of directors, otherwise than by removal or expiration of term, shall be filled in such manner as the bylaws may provide.

(b) The bylaws may provide for a method of apportioning the number of directors among the units into which the association may be divided and for the election of directors by the respective units to which they are apportioned.

(c) An executive committee of the board of directors may be elected in such manner and with such powers and duties as the articles or bylaws may prescribe.

(d) Meetings of directors and of the executive committee may be held inside or outside the District.

(e) Unless the articles of incorporation or bylaws provide otherwise, the board of directors may permit any or all directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present in person at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(10), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-918. 1981 Ed., § 29-1118. 1973 Ed., § 29-818.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Management of association.

The directors of a cooperative owe a fiduciary duty to act solely in the best interest of all members of the cooperative. *Willens v. 2720 Wis. Ave. Coop. Ass'n*, 844 A.2d 1126, 2004 D.C. App. LEXIS 67 (2004).

The directors of a housing cooperative owe the duties of a fiduciary to the cooperative and to its members, including the duty of loyalty. *Willens v. 2720 Wis. Ave. Coop. Ass'n*, 844 A.2d 1126, 2004 D.C. App. LEXIS 67 (2004).

Incorporated cooperative association's by-law providing that board of directors' selection of counsel shall be subject to approval of membership violated statute, and such by-law did not preclude counsel from recovering for services rendered under contract approved by the board. D.C. Code 1951, §§ 29-818, 29-821. *Capitol Cab. Co-op. Ass'n, Inc. v. Darden*, 169 A.2d 463, 1961 D.C. App. LEXIS 211 (Cr.App. 1961).

§ 29-919. Officers.

The officers of an association shall include a president, one or more vice-presidents, a secretary and a treasurer, or a secretary-treasurer. The officers shall be elected annually by the directors unless the bylaws otherwise provide. The president and at least one vice-president shall be directors, but no other officer need be a director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(11), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-919. 1981 Ed., § 29-1119.

1973 Ed., § 29-819.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "shall include" for "include."

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-920. Removal of directors and officers; vote required for approval; vacancies.

A director or officer may be removed, with or without cause, by a vote of $\frac{2}{3}$ of the members voting at a regular or special meeting. The director or officer involved shall have an opportunity to be heard in person or by counsel at the meeting. A vacancy caused by any such removal shall be filled by the vote provided in the bylaws for election of directors, if the bylaws provide for a means of electing or appointing officers that means.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(12), 59 DCR 13171.)

Prior Codifications. — 2001 Ed., § 29-920. 1981 Ed., § 29-1120.

1973 Ed., § 29-820.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-921. Referendum on acts of directors.

The articles or bylaws may provide that, within a specified period of time, any action taken by the directors shall be referred to the members for approval or disapproval if demanded by petition of at least 10% of all the members or by vote of at least a majority of the directors; provided, that the rights of third parties which have vested between the time of such action and such referendum shall not be impaired thereby.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-921.
1981 Ed., § 29-1121.
1973 Ed., § 29-821.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

In general.

Incorporated cooperative association's by-law providing that board of directors' selection of counsel shall be subject to approval of membership violated statute, and such by-law did not

preclude counsel from recovering for services rendered under contract approved by the board. D.C. Code 1951, §§ 29-818, 29-821. *Capitol Cab. Co-op. Ass'n, Inc. v. Darden*, 169 A.2d 463, 1961 D.C. App. LEXIS 211 (Cr.App. 1961).

§ 29-922. Limitations upon the return on capital.

(a) The return upon capital shall not exceed 6% per annum upon the paid-up capital and shall be noncumulative.

(b) Total return upon capital distributed for any single period shall not exceed 50% of the net savings for that period.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-931.

Prior Codifications. — 2001 Ed., § 29-922.
1981 Ed., § 29-1122.

1973 Ed., § 29-822.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-923. Eligibility and admission to membership.

Any individual, association, corporation, incorporated or unincorporated group organized on a cooperative basis, any nonprofit group, or other entity shall be eligible for membership in an association if it has met the qualifications for eligibility, if any, stated in the articles or bylaws and shall be deemed a member upon payment in full for the par value of the minimum amount of share or membership capital stated in the articles as necessary to qualify for membership.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-902.

Prior Codifications. — 2001 Ed., § 29-923.
1981 Ed., § 29-1123.

1973 Ed., § 29-823.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-924. Subscribers.

Any individual or group eligible for membership and legally obligated to purchase a share or shares of, or membership in, an association shall be deemed a subscriber. The articles or bylaws may determine whether, and the conditions under which, any voting rights or other rights of membership are granted to subscribers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-924.
1981 Ed., § 29-1124.
1973 Ed., § 29-824.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-925. Share and membership certificates; issuance and contents.

No certificate for share or membership capital shall be issued until the par value thereof has been paid for in full. A full or condensed statement of the requirements of §§ 29-913, 29-914, 29-915, and 29-927 shall be printed upon each certificate issued by an association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-925.
1981 Ed., § 29-1125.
1973 Ed., § 29-825.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-926. Transfer of shares and memberships; withdrawal.

(a) If a member desires to withdraw from the association or dispose of any or all of the member's holdings therein, the directors may purchase the holdings by paying the member the par value of any or all the holdings offered. The directors shall then reissue or cancel the holdings. A vote of the majority of the members voting at a regular or special meeting may order the directors to exercise this power to purchase.

(b) If the association fails, within 60 days of the original offer, to purchase all or any part of the holdings offered, the member may dispose of the unpurchased interest elsewhere, subject to the approval of the transferee by a majority vote of the directors. Any purported transferee not approved by the directors may appeal to the members at their first regular or special meeting thereafter and the action of the meeting shall be final. If the transferee is not approved, the directors shall exercise their power to purchase, if and when the purchase can be made without jeopardizing the solvency of the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-926.
1981 Ed., § 29-1126.
1973 Ed., § 29-826.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-927. Share and membership certificates — Recall.

The bylaws may give the directors the power to use the reserve funds to recall, at par value, the holdings of any member in excess of the amount requisite for membership. The bylaws may also provide that if any member has failed to patronize the association during a period of time specified in the bylaws, the directors may use the reserve funds to recall all the member's holdings and thereupon the member shall cease to be a member of the association. When so recalled, the certificates of share or membership capital shall be either reissued or canceled.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-925.

1973 Ed., § 29-827.

Prior Codifications. — 2001 Ed., § 29-927.
1981 Ed., § 29-1127.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-928. Share and membership certificates — Exemption for attachment, execution and garnishment.

The holdings of any member of an association, to the extent of the minimum amount necessary for membership, but not to exceed \$500, shall be exempt from attachment, execution, or garnishment for the debts of the owner. If any holdings in excess of this amount are subjected to such liability, the directors of the association may either admit the purchaser thereof to membership or may purchase from the purchaser the holdings at par value.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-928.
1981 Ed., § 29-1128.
1973 Ed., § 29-828.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-929. Liability of members.

Members shall not be jointly or severally liable for any debts of the association. A subscriber shall not be liable for any debts of the association, except to the extent of the unpaid amount on the shares or membership certificate subscribed by the subscriber. No subscriber is released from liability by reason of any assignment of his interest in the shares or membership certificate, but shall remain jointly and severally liable with the assignee until the shares or certificates are fully paid up.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-929.
1981 Ed., § 29-1129.
1973 Ed., § 29-829.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-930. Expulsion of members; procedure; purchase of holdings.

A member may be expelled by the vote of a majority of the members voting at a regular or special meeting. The member against whom the charges are to be preferred shall be informed thereof in writing at least 10 days in advance of the meeting and shall have an opportunity to be heard in person or by counsel at the meeting. On the decision of the association to expel a member, the board of directors shall purchase the member's holdings at par value, if and when there are sufficient reserve funds.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-930.
1981 Ed., § 29-1130.
1973 Ed., § 29-830.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Foreign corporations.
Rights of members.

Foreign corporations.

Taxi owners' association was not an "association" within District of Columbia statute governing procedures for expulsion of members from cooperative associations, where the association was organized under the laws of Delaware as a nonprofit corporation and was registered to conduct business in District under the Business Corporation Act. D.C. Code 1981, §§ 29-301 et seq., 29-1101, 29-1140, 29-1141. *Mazanderan v. Independent Taxi Owners' Asso.*, 700 F. Supp. 588, 1988 U.S. Dist. LEXIS 14381 (1988).

Maryland cooperative association owning premises in District of Columbia could terminate membership in association according to bylaws, occupancy agreement, and Maryland law without a vote of the membership for failure to pay monthly carrying charges. D.C. Code 1981, §§ 29-1130, 29-1141. *Snowden v. Benning Heights Cooperative, Inc.*, 557 A.2d 151, 1989 D.C. App. LEXIS 59 (1989).

Rights of members.

Resolution which was passed by cooperative apartment association and which declared stockholder to be tenant by sufferance and to have forfeited all right as a stockholder to a financial interest in association was ineffective to accomplish a forfeiture of stockholder's inter-

est in association and to provide a basis upon which to expel stockholder from association where stockholder did not receive written notice of meeting of association wherein resolution was adopted and, more importantly, was not given an opportunity to be heard when he attended meeting and, hence, was not provided with procedural safeguards afforded by statute. D.C. Code §§ 29-801 et seq., 29-830. *Clydesdale, Inc. v. Wegener*, 372 A.2d 1013, 1977 D.C. App. LEXIS 471 (1977).

Though stockholder in cooperative apartment building did not follow procedure prescribed in bylaws of association by paying his maintenance fee assessed for two months, where association never gave stockholder a 24-hour period of grace provided for in bylaws, failure of association to comply with its own bylaws operated to render ineffective both its resolution declaring stockholder to be a tenant by sufferance and to have forfeited all right as a stockholder to a financial interest in association and its order to surrender possession of unit occupied by stockholder within 30 days. D.C. Code §§ 29-801 et seq., 29-830. *Clydesdale, Inc. v. Wegener*, 372 A.2d 1013, 1977 D.C. App. LEXIS 471 (1977).

That right of a tenant in a cooperative apartment building to continue in possession of any given lease depends upon compliance with terms of contract and lease does not mean that stockholder and ownership aspects of tenant's position may be ignored. *Clydesdale, Inc. v. Wegener*, 372 A.2d 1013, 1977 D.C. App. LEXIS 471 (1977).

§ 29-931. Allocation and distribution of net savings.

At least once a year the members or the directors, or both, as the articles or

bylaws may provide, shall apportion the net savings of the association in the following order:

(1) Not less than 10% shall be placed in a reserve fund until such time as the fund equals at least 50% of the paid-up capital. The fund may be used in the general conduct of the business. The amounts apportioned to the reserve fund shall be allocated on the books of the association on a patronage basis or, in lieu thereof, the books and records of the association shall afford a means for doing so, in order that upon dissolution or earlier, if deemed advisable, the reserves may be returned to the patrons who have contributed the same, subject to the limitations of § 29-934.

(2) A return upon capital, within the limitations of § 29-922, may be paid upon share capital, or, if the bylaws so provide, upon the membership capital certificates of a nonshare association, but the return upon capital may be paid only out of the surplus of the aggregate of the assets over the aggregate of the liabilities, including in the latter the amount of the capital stock, after deducting from the aggregate of the assets the amount by which such aggregate was increased by unrealized appreciation in value or revaluation of fixed assets.

(3) A portion of the remainder, as determined by the articles or bylaws, shall be allocated to an educational fund to be used in teaching cooperation, and a portion may also be allocated to funds for the general welfare of the members of the association.

(4) The remainder shall be allocated at the same uniform rate to all patrons of the association in proportion to their individual patronage in accordance with the following rules:

(A) In the case of a member patron, the member's proportionate amount of savings returns shall be distributed to the member unless the member agrees that the association should credit the amount to the member's account toward the purchase of an additional share or shares or additional membership capital.

(B) In the case of a subscriber patron, the patron's proportionate amount of savings returns may, as the articles or bylaws provide, be distributed to the patron or credited to the patron's account until the amount of capital subscribed for has been fully paid.

(C) In the case of a nonmember patron, the patron's proportionate amount of savings returns shall be set aside in a general fund for such patrons and shall be allocated to individual nonmember patrons only upon request and presentation of evidence of the amount of their patronage. Any savings return so allocated shall be credited to such patron toward payment of the minimum amount of share or membership capital necessary for membership. When a sum equal to this amount has accumulated at any time within a period of time specified in the bylaws, the patron shall be deemed to be, and becomes, a member of the association if the patron so agrees or requests and complies with any provisions in the bylaws for admission to membership. The certificates of shares or membership to which the patron is entitled shall then be issued to the patron.

(D)(i) Sub-subparagraph (ii) of this subparagraph shall apply if within any periods of time specified in the articles or bylaws:

(I) Any subscriber has not accumulated and paid in the amount of capital subscribed for;

(II) Any nonmember patron has not accumulated in the patron's individual account the sum necessary for membership; or

(III) Any nonmember patron has accumulated the sum necessary for membership, but the patron does not request or agree to become a member, or fails to comply with the provisions of the bylaws, if any, for admission to membership.

(ii) If any of the conditions set forth in sub-subparagraph (i) of this subparagraph occur, the amounts so accumulated or paid in and any part of the general fund for nonmember patrons which has not been allocated to individual nonmember patrons shall go to the educational fund and, thereafter, no member or other patron shall have any rights in this paid-in capital or accumulated savings returns as such; provided, that nothing in this section prevents an association:

(I) Under this chapter which is engaged in rendering services from disposing of the net savings from the rendering of such services in such manner as to lower the fees charged for services or otherwise to further the common benefit of the members; or

(II) From adopting a system whereby the payment of savings returns which would otherwise be distributed, shall be deferred for a fixed period of months or years, or from adopting a system whereby the savings returns distributed shall be partly in cash, partly in shares, the shares to be retired at a fixed future date, in the order of their serial number or date of issue.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-902.

1973 Ed., § 29-831.

Prior Codifications. — 2001 Ed., § 29-931.
1981 Ed., § 29-1131.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-932. Bonding of officers and employees.

Every individual acting as officer or employee of an association and handling funds or securities amounting to \$1,000 or more, in any one year, shall be covered by an adequate bond, as determined by the board of directors and at the expense of the association. The bylaws may also provide for the bonding of other employees or officers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-932.
1981 Ed., § 29-1132.
1973 Ed., § 29-832.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-933. Audit.

To record its business operation, every association shall keep a set of books, which shall be audited at the end of each fiscal year by an experienced

bookkeeper or accountant, who shall not be an officer or director. If the annual business amounts to less than \$10,000, the audit may be performed by an auditing committee of 3, who shall not be directors, officers, or employees. A written report of the audit, including a statement of the amount of business transacted with members and the amount transacted with nonmembers, the balance sheet, and the income and expenses, shall be submitted to the annual meeting of the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-933.
1981 Ed., § 29-1123.
1973 Ed., § 29-823.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-934. Dissolution; methods; vote required for approval; distribution of assets.

An association may, at any regular or special meeting legally called, be directed to dissolve by a vote of $\frac{2}{3}$ of the entire membership. By a vote of a majority of the members voting, 3 members shall be designated as trustees, who shall, on behalf of the association and within a time fixed in their designation or within any extension thereof, liquidate its assets, and shall distribute them in the manner set forth in this section. The association shall file a statement of dissolution with the Mayor. An action in the Superior Court for judicial dissolution of an association organized under this chapter may be instituted for the causes and prosecuted in the manner set forth in part B of subchapter XII of Chapter 4 of this title; provided, that any distribution of assets shall be in the manner set forth in this section. In case of any dissolution of an association, its assets shall be distributed in the following manner and order:

(1) Payment of its debts and expenses;

(2) Returning to members the par value of their shares or of their membership certificates, return to the subscribers the amounts paid on their subscriptions, and returning to the patrons the amount of savings returns credited to their accounts toward the purchase of shares or membership certificates; and

(3) Distribution of any surplus in either or both of the following ways as the articles may provide:

(A) Among those patrons who have been members or subscribers at any time during the past 6 years, on the basis of their patronage during that period; or

(B) As a gift to any consumers' cooperative association or other non-profit enterprise which may be designated in the articles.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(13), 59 DCR 13171.)

Section references. — This section is referenced in § 29-906 and § 29-931.

Prior Codifications. — 2001 Ed., § 29-936.

1981 Ed., § 29-1136.

1973 Ed., § 29-836.

Effect of amendments. — The 2013

amendment by D.C. Law 19-210 substituted “part B of subchapter XII of Chapter 4 of this title” for “part B of subchapter XII of Chapter 3 of this title” in the introductory paragraph.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-935. Existing cooperative groups; acceptance of act; filing and recordation of amended articles and bylaws.

Any group incorporated under another law of the District and operating on a cooperative basis or any unincorporated group operating on such a basis in the District may elect by a vote of $\frac{2}{3}$ of the members voting to secure the benefits of and be bound by this chapter, and shall thereupon amend the parts of its articles and bylaws as are not in conformity with this chapter. A certified copy of the amended articles shall be delivered to the Mayor for filing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(i)(14), 59 DCR 13171.)

Section references. — This section is referenced in § 29-902.

Prior Codifications. — 2001 Ed., § 29-940.
1981 Ed., § 29-1140.
1973 Ed., § 29-840.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-905.

Editor’s notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

CASE NOTES

Foreign corporations.

Taxi owners’ association was not an “association” within District of Columbia statute governing procedures for expulsion of members from cooperative associations, where the association was organized under the laws of Delaware as a nonprofit corporation and was regis-

tered to conduct business in District under the Business Corporation Act. D.C. Code 1981, §§ 29-301 et seq., 29-1101, 29-1140, 29-1141. *Mazanderan v. Independent Taxi Owners’ Asso.*, 700 F. Supp. 588, 1988 U.S. Dist. LEXIS 14381 (1988).

§ 29-936. Foreign corporations and associations; admission to do business.

A foreign corporation or association operating on a cooperative basis and complying with the applicable laws of the state wherein it is organized shall be entitled to do business in the District as a foreign cooperative corporation or association and shall govern itself in accordance with its bylaws and the laws of the state wherein it is organized. A foreign corporation or association shall file a foreign registration statement as provided in § 29-105.03.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-902 and § 29-939.

Prior Codifications. — 2001 Ed., § 29-941. 1981 Ed., § 29-1141.

1973 Ed., § 29-841.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

CASE NOTES

ANALYSIS

Associations.
In general.

Associations.

Taxi owners' association was not an "association" within District of Columbia statute governing procedures for expulsion of members from cooperative associations, where the association was organized under the laws of Delaware as a nonprofit corporation and was registered to conduct business in District under the Business Corporation Act. D.C. Code 1981, §§ 29-301 et seq., 29-1101, 29-1140, 29-1141. *Mazanderan v. Independent Taxi Owners' Asso.*, 700 F. Supp. 588, 1988 U.S. Dist. LEXIS 14381 (1988).

In general.

In addition to being bound by the regime established in the cooperative association's instruments, shareholders are subject to the law of the state under which the corporation is formed. D.C. Code 1981, § 29-1141. *Burgess v. Pelkey*, 738 A.2d 783, 1999 D.C. App. LEXIS

222 (1999), writ of certiorari denied by 529 U.S. 1099, 120 S. Ct. 1834, 146 L. Ed. 2d 778, 2000 U.S. LEXIS 3046, 68 U.S.L.W. 3684 (2000).

Where cooperative housing association was a Delaware corporation, Delaware law controlled in resolving issue concerning imposition of rental surcharge on owner who leased her cooperative apartment. D.C. Code 1981, § 29-1141. *Kelley v. Broadmoor Coop. Apts.*, 676 A.2d 453, 1996 D.C. App. LEXIS 87 (1996).

A foreign cooperative is permitted to govern itself according to its bylaws and laws of state where it was incorporated. D.C. Code 1981, § 29-1141. *Snowden v. Benning Heights Cooperative, Inc.*, 557 A.2d 151, 1989 D.C. App. LEXIS 59 (1989).

Maryland cooperative association owning premises in District of Columbia could terminate membership in association according to bylaws, occupancy agreement, and Maryland law without a vote of the membership for failure to pay monthly carrying charges. D.C. Code 1981, §§ 29-1130, 29-1141. *Snowden v. Benning Heights Cooperative, Inc.*, 557 A.2d 151, 1989 D.C. App. LEXIS 59 (1989).

§ 29-937. Compliance with chapter; not in restraint of trade.

The fact that economic activity of a limited cooperative association, a subsidiary, or a related entity, is organized under this chapter shall not in itself cause the activity to be considered a conspiracy, a combination in restraint of trade, an illegal monopoly, or an attempt to lessen competition or fix prices arbitrarily.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.08.

Prior Codifications. — 2001 Ed., § 29-942. 1981 Ed., § 29-1142.

1973 Ed., § 29-842.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-938. Chapter 3 of this title applicable to associations.

Chapter 3 of this title shall apply to associations formed under this chapter, except to the extent that it is in conflict with this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-939. Taxation; annual license fee.

Associations formed under this chapter, and foreign corporations and associations admitted under § 29-936 to do business in the District, shall pay an annual license fee established by the Mayor by rule.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-944.
1981 Ed., § 29-1144.
1973 Ed., § 29-844.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

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 29-1015.08. Subchapter not exclusive.

Subchapter I. General Provisions.

§ 29-1001.01. Short title.

This chapter may be cited as the "Uniform Limited Cooperative Association Act of 2010".

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 101 of the Uniform Limited Cooperative Association Act.

§ 29-1001.02. Definitions.

For the purposes of this chapter, the term:

- (1) "Board of directors" means the board of directors of a limited cooperative association.
- (2) "Bylaws" means the bylaws of a limited cooperative association. The term "bylaws" shall include the bylaws as amended or restated.
- (3) "Contribution", except as used in § 29-1010.08(c), means a benefit that a person provides to a limited cooperative association to become or remain a member or in the person's capacity as a member.
- (4) "Cooperative" means a limited cooperative association or an entity organized under any cooperative law of any jurisdiction.
- (5) "Director" means a director of a limited cooperative association.
- (6) "Distribution", except as used in § 29-1010.07(e), means a transfer of money or other property from a limited cooperative association to a member because of the member's financial rights or to a transferee of a member's financial rights.
- (7) "Financial rights" means the right to participate in allocations and distributions as provided in subchapters X and XII of this chapter, but shall not include rights or obligations under a marketing contract governed by subchapter VII of this chapter.
- (8) "Foreign cooperative" means an entity organized in a jurisdiction other than the District under a law similar to this chapter.
- (9) "Investor member" means a member that has made a contribution to a limited cooperative association and is not:
 - (A) Required by the organic rules to conduct patronage with the association in the member's capacity as an investor member to receive the member's interest; or
 - (B) Permitted by the organic rules to conduct patronage with the association in the member's capacity as an investor member in order to receive the member's interest.
- (10) "Limited cooperative association", "domestic limited cooperative association", "association", or "domestic association" means an association formed under this chapter or that becomes subject to this title under Chapter 2 of this title.
- (11) "Member" means a person that is admitted as a patron member or investor member, or both, in a limited cooperative association. The term "member" shall not include a person that has dissociated as a member.
- (12) "Member's interest" means the interest of a patron member or investor member under § 29-1006.01.
- (13) "Members meeting" means an annual members meeting or special meeting of members.
- (14) "Organizer" means an individual who signs the initial articles of organization.
- (15) "Patron member" means a member that has made a contribution to a limited cooperative association and is:
 - (A) Required by the organic rules to conduct patronage with the

association in the member's capacity as a patron member to receive the member's interest; or

(B) Permitted by the organic rules to conduct patronage with the association in the member's capacity as a patron member to receive the member's interest.

(16) "Patronage" means business transactions between a limited cooperative association and a person which entitle the person to receive financial rights based on the value or quantity of business done between the association and the person.

(17) "Registered foreign cooperative" means a foreign cooperative that is registered to do business in this state pursuant to a statement of registration filed by the Mayor.

(18) "Required information" means the information a limited cooperative association is required to maintain under § 29-1001.10.

(19) "Voting group" means any combination of one or more voting members in one or more districts or classes that under the organic rules or this chapter are entitled to vote and can be counted together collectively on a matter at a members meeting.

(20) "Voting member" means a member that, under the organic law or organic rules, has a right to vote on matters subject to vote by members under the organic law or organic rules.

(21) "Voting power" means the total current power of members to vote on a particular matter for which a vote may or is to be taken.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(2)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "formed under this chapter or that becomes subject to this title under Chapter 2 of this title" for "organized under this chapter" in (10); redesignated former (17) through (20) as present (18) through (21), respectively; and added present (17).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the "District of Columbia Official Code Title 29 Technical and Harmonizing Amend-

ments Act of 2012," was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July 10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes. — Uniform Law: This section is based on § 102 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1001.03. Nature of limited cooperative association.

(a) A limited cooperative association organized under this chapter shall be an autonomous, unincorporated association of persons united to meet their mutual interests through a jointly owned enterprise primarily controlled by those persons, which permits combining:

(1) Ownership, financing, and receipt of benefits by the members for whose interests the association is formed; and

(2) Separate investments in the association by members who may receive returns on their investments and a share of control.

(b) The fact that a limited cooperative association does not have one or more of the characteristics described in subsection (a) of this section shall not alone prevent the association from being formed under, and governed by, this chapter and shall not alone provide a basis for an action against the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 104 of the Uniform Limited Cooperative Association Act.

§ 29-1001.04. Purpose and duration of limited cooperative association.

(a) A limited cooperative association shall be an entity distinct from its members.

(b) A limited cooperative association may be organized for any lawful purpose, whether or not for profit.

(c) Unless the articles of organization state a term for a limited cooperative association's existence, the association shall have perpetual duration.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 105 of the Uniform Limited Cooperative Association Act.

§ 29-1001.05. Powers.

A limited cooperative association may sue and be sued in its own name and do all things necessary or convenient to carry on its activities affairs. An association may maintain an action against a member for harm caused to the association by the member's violation of a duty to the association or of the organic law or organic rules.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(2)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "activities."

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 106 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1001.06. Governing law.

The law of the District shall govern the:

- (1) Internal affairs of a limited cooperative association; and

(2) Liability of a member as member and a director as director for the debts, obligations, or other liabilities of a limited cooperative association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 107 of the Uniform Limited Cooperative Association Act.

§ 29-1001.07. Requirements of other laws.

(a) This chapter shall not alter or amend any law that governs the licensing and regulation of an individual or entity in carrying on a specific business or profession even if that law permits the business or profession to be conducted by a limited cooperative association, a foreign cooperative, or its members.

(b) A limited cooperative association shall not conduct an activity that, under law of the District other than this chapter, shall be conducted only by an entity that meets specific requirements for the internal affairs of that entity unless the organic rules of the association conform to those requirements.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 109 of the Uniform Limited Cooperative Association Act.

§ 29-1001.08. Relation to restraint of trade and antitrust laws.

To the extent a limited cooperative association or activities conducted by the association in the District meet the material requirements for other cooperatives entitled to an exemption from or immunity under § 29-937, the association and its activities shall be entitled to the exemption or immunity. This section shall not create any new exemption or immunity for an association or affect any exemption or immunity provided to a cooperative organized under any other law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 110 of the Uniform Limited Cooperative Association Act.

§ 29-1001.09. Effect of organic rules.

(a) The relations between a limited cooperative association and its members shall be consensual. Unless required, limited, or prohibited by this chapter, the organic rules may provide for any matter concerning the relations among the members of the association and between the members and the association, the activities of the association, and the conduct of its activities.

(b) The matters referred to in paragraphs (1) through (11) of this subsection shall be varied only in the articles of organization. The articles may:

- (1) State a term of existence for the association under § 29-1001.04(c);
 - (2) Limit or eliminate the acceptance of new or additional members by the initial board of directors under § 29-1003.03(b);
 - (3) Vary the limitations on the obligations and liability of members for association obligations under § 29-1005.04;
 - (4) Require a notice of an annual members meeting to state a purpose of the meeting under § 29-1005.08(b);
 - (5) Vary the board of directors meeting quorum under § 29-1008.15(a);
 - (6) Vary the matters the board of directors may consider in making a decision under § 29-1008.20;
 - (7) Specify causes of dissolution under § 29-1012.02(1);
 - (8) Delegate amendment of the bylaws to the board of directors pursuant to § 29-1004.05(f);
 - (9) Provide for member approval of asset dispositions under § 29-1014.01;
 - (10) Subject to § 29-1008.20, provide for the elimination or limitation of liability of a director to the association or its members for money damages pursuant to § 29-1008.18;
 - (11) Provide for permitting or making obligatory indemnification under § 29-1009.01(a); and
 - (12) Provide for any matters that may be contained in the organic rules, including those under subsection (c) of this section.
- (c) The matters referred to in this subsection shall be varied only in the organic rules. The organic rules may:
- (1) Require more information to be maintained under § 29-1001.10 or provided to members under § 29-1005.05(k);
 - (2) Provide restrictions on transactions between a member and an association under § 29-1001.11;
 - (3) Provide for the percentage and manner of voting on amendments to the organic rules by district, class, or voting group under § 29-1004.04(a);
 - (4) Provide for the percentage vote required to amend the bylaws concerning the admission of new members under § 29-1004.05(e)(5);
 - (5) Provide for terms and conditions to become a member under § 29-1005.02;
 - (6) Restrict the manner of conducting members meetings under §§ 29-1005.06(c) and 29-1005.07(e);
 - (7) Designate the presiding officer of members meetings under §§ 29-1005.06(e) and 29-1005.07(g);
 - (8) Require a statement of purposes in the annual meeting notice under § 29-1005.08(b);
 - (9) Increase quorum requirements for members meetings under § 29-1005.10 and board of directors meetings under § 29-1008.15;
 - (10) Allocate voting power among members, including patron members and investor members, and provide for the manner of member voting and action as permitted by §§ 29-1005.11 through 29-1005.17;
 - (11) Authorize investor members and expand or restrict the transferability of members' interests to the extent provided in §§ 29-1006.02 through 29-1006.04;

(12) Provide for enforcement of a marketing contract under § 29-1007.04(a);

(13) Provide for qualification, election, terms, removal, filling vacancies, and member approval for compensation of directors in accordance with §§ 29-1008.03 through 29-1008.05, 29-1008.07, 29-1008.09, and 29-1008.10;

(14) Restrict the manner of conducting board meetings and taking action without a meeting under §§ 29-1008.11 and 29-1008.12;

(15) Provide for frequency, location, notice, and waivers of notice for board meetings under §§ 29-1008.13 and 29-1008.14;

(16) Increase the percentage of votes necessary for board action under § 29-1008.16(b);

(17) Provide for the creation of committees of the board of directors and matters related to the committees in accordance with § 29-1008.17;

(18) Provide for officers and their appointment, designation, and authority under § 29-1008.22;

(19) Provide for forms and values of contributions under § 29-1010.02;

(20) Provide for remedies for failure to make a contribution under § 29-1010.03(b);

(21) Provide for the allocation of profits and losses of the association, distributions, and the redemption or repurchase of distributed property other than money in accordance with §§ 29-1010.04 through 29-1010.07;

(22) Specify when a member's dissociation is wrongful and the liability incurred by the dissociating member for damage to the association under § 29-1011.01(b) and (c);

(23) Provide the personal representative, or other legal representative, of a deceased member or a member adjudged incompetent with additional rights under § 29-1011.03;

(24) Increase the percentage of votes required for board of director approval of:

(A) A resolution to dissolve under § 29-1012.05(a)(1);

(B) A proposed amendment to the organic rules under § 29-1004.02(a)(1);

(C) A transaction under Chapter 2 of this title;

(D) A plan of merger under § 29-1015.03(a); and

(E) A proposed disposition of assets under § 29-1014.03(1); and

(25) Vary the percentage of votes required for members approval of:

(A) A resolution to dissolve under § 29-1012.05;

(B) An amendment to the organic rules under § 29-1004.05;

(C) A plan of conversion under § 29-204.02;

(D) A plan of merger under § 29-1015.04; and

(E) A disposition of assets under § 29-1014.04.

(d) The organic rules shall address members' contributions pursuant to § 29-1010.01.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1003.02 and § 29-1003.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 113 of the Uniform Limited Cooperative Association Act.

§ 29-1001.10. Required information.

(a) Subject to subsection (b) of this section, a limited cooperative association shall maintain in a record available at its principal office:

(1) A list containing the name, last known street address and, if different, mailing address, and term of office of each director and officer;

(2) The initial articles of organization and all amendments to and restatements of the articles, together with a signed copy of any power of attorney under which any article, amendment, or restatement has been signed;

(3) The initial bylaws and all amendments to and restatements of the bylaws;

(4) All filed articles of merger and statements filed under Chapter 2 of this title;

(5) All financial statements of the association for the 6 most recent years;

(6) The 6 most recent biennial reports delivered by the association to the Mayor;

(7) The minutes of members meetings for the 6 most recent years;

(8) Evidence of all actions taken by members without a meeting for the 6 most recent years;

(9) A list containing:

(A) The name, in alphabetical order, and last known street address and, if different, mailing address of each patron member and each investor member; and

(B) If the association has districts or classes of members, information from which each current member in a district or class may be identified;

(10) The federal income tax returns, any state and local income tax returns, and any tax reports of the association for the 6 most recent years;

(11) Accounting records maintained by the association in the ordinary course of its operations for the 6 most recent years;

(12) The minutes of directors meetings for the 6 most recent years;

(13) Evidence of all actions taken by directors without a meeting for the 6 most recent years;

(14) The amount of money contributed and agreed to be contributed by each member;

(15) A description and statement of the agreed value of contributions other than money made and agreed to be made by each member;

(16) The times at which, or events on the happening of which, any additional contribution is to be made by each member;

(17) For each member, a description and statement of the member's interest or information from which the description and statement can be derived; and

(18) All communications concerning the association made in a record to all members, or to all members in a district or class, for the 6 most recent years.

(b) If a limited cooperative association has existed for less than the period for which records must be maintained under subsection (a) of this section, the period for which records must be kept shall be the period of the association's existence.

(c) The organic rules may require that more information be maintained.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.02, § 29-1001.09, § 29-1005.05, and § 29-1008.22.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 114 of the Uniform Limited Cooperative Association Act.

§ 29-1001.11. Business transactions of member with limited cooperative association.

Subject to §§ 29-1008.18 and 29-1008.19 and except as otherwise provided in the organic rules or a specific contract relating to a transaction, a member may lend money to and do other business with a limited cooperative association in the same manner as a person that is not a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 115 of the Uniform Limited Cooperative Association Act.

§ 29-1001.12. Dual capacity.

A person may have a patron member's interest and an investor member's interest. When such person acts as a patron member, the person shall be subject to this chapter and the organic rules governing patron members. When such person acts as an investor member, the person shall be subject to this chapter and the organic rules governing investor members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 116 of the Uniform Limited Cooperative Association Act.

§ 29-1001.13. Approval of entity transaction by limited cooperative association.

(a) For a limited cooperative association to approve an entity transaction under subchapter XV of this chapter or Chapter 2 of this title, a plan must be approved by a majority of the board of directors, or a greater percentage if required by the organic rules, and the board of directors must call a members meeting to consider the plan, hold the meeting not later than 90 days after

approval of the plan by the board, and mail or otherwise transmit or deliver in a record to each member:

(1) The plan, or a summary of the plan and a statement of the manner in which a copy of the plan in a record may be reasonably obtained by a member;

(2) A recommendation that the members approve the plan, or if the board determines that because of a conflict of interest or other circumstances it should not make a favorable recommendation, the basis for that determination;

(3) A statement of any condition of the board's submission of the plan to the members; and

(4) Notice of the meeting at which the plan will be considered, which must be given in the same manner as notice of a special meeting of members.

(b) Subject to subsections (c) and (d) of this section, a plan must be approved by:

(1) At least two-thirds of the voting power of members present at a members meeting called under subsection (a) of this section; and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(c) The organic rules may require that the percentage of votes under subsection (b)(1) of this section is:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or "(3) A combination of paragraphs (1) and (2) of this subsection.

(d) The vote required to approve a plan may not be less than the vote required for the members of the limited cooperative association to amend the articles of organization.

(e) Consent in a record to a plan by a member must be delivered to the limited cooperative association before delivery to the Mayor for filing of articles of merger, interest exchange, conversion, or domestication, if, as a result of the merger, interest exchange, conversion, or domestication, the member will have interest holder liability for debts, obligations, or other liabilities that arise after the transaction becomes effective.

(f) The voting requirements for districts, classes, or voting groups under § 29-1004.04 apply to the approval of a transaction under this title.

(Mar. 5, 2013, D.C. Law 19-210, § 2(j)(2)(C), 59 DCR 13171.)

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

*Subchapter II. Filing.***§ 29-1002.01. Signing of records delivered for filing to Mayor.**

A record delivered to the Mayor for filing pursuant to this chapter shall be signed as follows:

(1) The initial articles of organization shall be signed by at least one organizer.

(2) A statement of cancellation under § 29-1003.02(d) shall be signed by at least one organizer.

(3) Except as otherwise provided in paragraph (4) of this subsection, a record signed on behalf of an existing limited cooperative association shall be signed by an officer.

(4) A record filed on behalf of a dissolved association shall be signed by a person winding up activities under § 29-1012.06 or a person appointed under § 29-1012.06 to wind up those activities.

(5) Any other record delivered on behalf of a person to the Mayor for filing must be signed by that person.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(3)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted the subsection “(a)” designation; substituted “delivered on behalf of a person to the Mayor for filing must be signed by that person” for “shall be signed by the person on whose behalf the record is delivered to the Mayor” in (5); and repealed former (b), which read: “Any record to be signed under this chapter may be signed by an authorized agent.”

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor’s notes. — Uniform Law: This section is based on § 201 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1002.02. Signing and filing of records pursuant to judicial order.

(a) If a person required by this chapter to sign or deliver a record to the Mayor for filing does not do so, any other person that is aggrieved may petition the Superior Court to order:

(1) The person to sign the record; or

(2) The person to deliver the record to the Mayor for filing; or

(3) The Mayor to file the record unsigned.

(b) If the petitioner under subsection (a) of this section is not the limited cooperative association or foreign cooperative to which the record pertains, the petitioner shall make the association or cooperative a party to the action.

(c) A record filed pursuant to this section is effective without being signed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(3)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 202 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1002.03. Liability for inaccurate information in filed record.

If a record delivered to the Mayor for filing under this chapter and filed by the Mayor contains inaccurate information, a person that suffers a loss by reliance on the information may recover damages for the loss from a person that signed the record or caused another to sign it on the person's behalf and knew at the time the record was signed that the information was inaccurate.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 205 of the Uniform Limited Cooperative Association Act.

Subchapter III. Formation and Initial Articles of Organization of Limited Cooperative Association.

§ 29-1003.01. Organizers.

A limited cooperative association shall be organized by one or more organizers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 301 of the Uniform Limited Cooperative Association Act.

§ 29-1003.02. Formation of limited cooperative association; articles of organization.

(a) To form a limited cooperative association, an organizer of the association must deliver articles of organization to the Mayor for filing. The articles shall state:

- (1) The name of the association, which shall comply with §§ 29-103.01 and 29-103.02(h);
- (2) The purposes for which the association is formed;
- (3) The street address and, if different, mailing address of the association's initial principal office and the information required by § 29-104.04;
- (4) The name and street address and, if different, mailing address of each organizer; and
- (5) The term for which the association is to exist if other than perpetual.

(b) Subject to § 29-1001.09(a), articles of organization may contain any other provisions in addition to those required by subsection (a) of this section.

(c) A limited cooperative association shall be formed after articles of organization that substantially comply with subsection (a) of this section are delivered to the Mayor, are filed, and become effective under § 29-102.03.

(d) If articles of organization filed by the Mayor state a delayed effective date, a limited cooperative association shall not be formed if, before the articles take effect, an organizer signs and delivers to the Mayor for filing a statement of cancellation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-101.06 and § 29-1002.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 302 of the Uniform Limited Cooperative Association Act.

§ 29-1003.03. Organization of limited cooperative association.

(a) After a limited cooperative association is formed:

(1) If initial directors are named in the articles of organization, the initial directors shall hold an organizational meeting to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association; or

(2) If initial directors are not named in the articles of organization, the organizers shall designate the initial directors and call a meeting of the initial directors to adopt initial bylaws and carry on any other business necessary or proper to complete the organization of the association.

(b) Unless the articles of organization otherwise provide, the initial directors may cause the limited cooperative association to accept members, including those necessary for the association to begin business.

(c) Initial directors need not be members.

(d) An initial director shall serve until a successor is elected and qualified at a members meeting or the director is removed, resigns, is adjudged incompetent, or dies.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1008.04, and § 29-1008.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 303 of the Uniform Limited Cooperative Association Act.

§ 29-1003.04. Bylaws.

(a) Bylaws shall be in a record and, if not stated in the articles of organization, shall include:

(1) A statement of the capital structure of the limited cooperative association, including:

(A) The classes or other types of members' interests and relative rights, preferences, and restrictions granted to or imposed upon each class or other type of member's interest; and

(B) The rights to share in profits or distributions of the association;

(2) A statement of the method for admission of members;

(3) A statement designating voting and other governance interests, including which members have voting power and any restriction on voting power;

(4) A statement that a member's interest is transferable if it is to be transferable and a statement of the conditions upon which it may be transferred;

(5) A statement concerning the manner in which profits and losses are allocated, and distributions are made, among patron members and, if investor members are authorized, the manner in which profits and losses are allocated, and how distributions are made, among investor members and between patron members and investor members;

(6) A statement concerning:

(A) Whether persons that are not members but conduct business with the association may be permitted to share in allocations of profits and losses and receive distributions; and

(B) The manner in which profits and losses are allocated and distributions are made with respect to those persons; and

(7) A statement of the number and terms of directors or the method by which the number and terms are determined.

(b) Subject to § 29-1001.09(c) and the articles of organization, bylaws may contain any other provision for managing and regulating the affairs of the association.

(c) In addition to amendments permitted under subchapter IV of this chapter, the initial board of directors may amend the bylaws by a majority vote of the directors at any time before the admission of members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1004.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 304 of the Uniform Limited Cooperative Association Act.

Subchapter IV. Amendment of Organic Rules of Limited Cooperative Association.

§ 29-1004.01. Authority to amend organic rules.

(a) A limited cooperative association may amend its organic rules under this subchapter for any lawful purpose. In addition, the initial board of directors may amend the bylaws of an association under § 29-1003.04.

(b) Unless the organic rules otherwise provide, a member shall not have a vested property right resulting from any provision in the organic rules, including a provision relating to the management, control, capital structure, distribution, entitlement, purpose, or duration of the limited cooperative association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1004.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 401 of the Uniform Limited Cooperative Association Act.

§ 29-1004.02. Notice and action on amendment of organic rules.

(a) Except as otherwise provided in §§ 29-1004.01(a) and 29-1004.05(f), the organic rules of a limited cooperative association shall be amended only at a members meeting. An amendment may be proposed by either:

(1) A majority of the board of directors, or a greater percentage if required by the organic rules; or

(2) One or more petitions signed by at least 10% of the patron members or at least 10% of the investor members.

(b) The board of directors shall call a members meeting to consider an amendment proposed pursuant to subsection (a) of this section. The meeting shall be held not later than 90 days following the proposal of the amendment by the board or receipt of a petition. The board shall mail or otherwise transmit or deliver in a record to each member:

(1) The proposed amendment, or a summary of the proposed amendment and a statement of the manner in which a copy of the amendment in a record may be reasonably obtained by a member;

(2) A recommendation that the members approve the amendment or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis for that determination;

(3) A statement of any condition of the board's submission of the amendment to the members; and

(4) Notice of the meeting at which the proposed amendment will be considered, which shall be given in the same manner as notice for a special meeting of members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1004.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 402 of the Uniform Limited Cooperative Association Act.

§ 29-1004.03. Method of voting on amendment of organic rules.

(a) A substantive change to a proposed amendment of the organic rules shall not be made at the members meeting at which a vote on the amendment occurs.

(b) A nonsubstantive change to a proposed amendment of the organic rules may be made at the members meeting at which the vote on the amendment occurs and need not be separately voted upon by the board of directors.

(c) A vote to adopt a nonsubstantive change to a proposed amendment to the organic rules shall be by the same percentage of votes required to pass a proposed amendment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 403 of the Uniform Limited Cooperative Association Act.

§ 29-1004.04. Voting by district, class, or voting group.

(a) This section shall apply if the organic rules provide for voting by district or class or if there is one or more identifiable voting groups that a proposed amendment to the organic rules would affect differently from other members with respect to matters identified in § 29-1004.05(e)(1) through (5). Approval of the amendment shall require the same percentage of votes of the members of that district, class, or voting group required in §§ 29-1004.05 and 29-1005.14.

(b) If a proposed amendment to the organic rules would affect members in 2 or more districts or classes entitled to vote separately under subsection (a) of this section in the same or a substantially similar way, the districts or classes affected shall vote as a single voting group unless the organic rules otherwise provide for separate voting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1001.13, § 29-1004.05, § 29-1014.04, and § 29-1015.04.

Editor's notes. — Uniform Law: This section is based on § 404 of the Uniform Limited Cooperative Association Act.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-1004.05. Approval of amendment.

(a) Subject to § 29-1004.04 and subsections (c) and (d) of this section, an amendment to the articles of organization shall be approved by:

(1) At least $\frac{2}{3}$ of the voting power of members present at a members meeting called under § 29-1004.02; and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) Subject to § 29-1004.04 and subsections (c), (d), (e) and (f) of this section, an amendment to the bylaws shall be approved by:

(1) At least a majority vote of the voting power of all members present at a members meeting called under § 29-1004.02, unless the organic rules require a greater percentage; and

(2) If a limited cooperative association has investor members, a majority of the votes cast by patron members, unless the organic rules require a larger affirmative vote by patron members.

(c) The organic rules may require that the percentage of votes under subsection (a)(1) or (b)(1) of this section be:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(d) Consent in a record by a member shall be delivered to a limited cooperative association before delivery of an amendment to the articles of organization or restated articles of organization for filing pursuant to § 29-1004.07 if, as a result of the amendment, the member will have:

(1) Personal liability for an obligation of the association; or

(2) An obligation or liability for an additional contribution.

(e) The vote required to amend bylaws shall satisfy the requirements of subsection (a) of this section if the proposed amendment modifies:

(1) The equity capital structure of the limited cooperative association, including the rights of the association's members to share in profits or distributions, or the relative rights, preferences, and restrictions granted to or imposed upon one or more districts, classes, or voting groups of similarly situated members;

(2) The transferability of a member's interest;

(3) The manner or method of allocation of profits or losses among members;

(4) The quorum for a meeting and the rights of voting and governance; or

(5) Unless otherwise provided in the organic rules, the terms for admission of new members.

(f) Except for the matters described in subsection (e) of this section, the articles of organization may delegate amendment of all or a part of the bylaws to the board of directors without requiring member approval.

(g) If the articles of organization delegate amendment of bylaws to the board of directors, the board shall provide a description of any amendment of the bylaws made by the board to the members in a record not later than 30 days after the amendment, but the description may be provided at the next annual members meeting if the meeting is held within the 30-day period.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1004.02, § 29-1004.04, and § 29-1004.06.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 405 of the Uniform Limited

Cooperative Association Act.

§ 29-1004.06. Restated articles of organization.

A limited cooperative association, by the affirmative vote of a majority of the board of directors taken at a meeting for which the purpose is stated in the notice of the meeting, may adopt restated articles of organization that contain the original articles as previously amended. Restated articles may contain amendments if the restated articles are adopted in the same manner and with the same vote as required for amendments to the articles under § 29-1004.05(a). Upon filing, restated articles shall supersede the existing articles and all amendments.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 406 of the Uniform Limited Cooperative Association Act.

§ 29-1004.07. Amendment or restatement of articles of organization; filing.

(a) To amend its articles of organization, a limited cooperative association shall deliver to the Mayor for filing an amendment of the articles, restated articles of organization, or articles of merger pursuant to subchapter XV of this chapter, which contain one or more amendments of the articles of organization, stating:

- (1) The name of the association;
- (2) The date of filing of the association's initial articles; and
- (3) The changes the amendment makes to the articles as most recently amended or restated.

(b) Before the beginning of the initial meeting of the board of directors, an organizer who knows that information in the filed articles of organization was inaccurate when the articles were filed or has become inaccurate due to changed circumstances shall promptly:

- (1) Cause the articles to be amended; or
- (2) If appropriate, deliver an amendment to the Mayor for filing pursuant to § 29-102.01.

(c) If restated articles of organization are adopted, the restated articles may be delivered to the Mayor for filing in the same manner as an amendment.

(d) Upon filing, an amendment of the articles of organization or other record containing an amendment of the articles which has been properly adopted by the members is effective as provided in § 29-102.03.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1004.05.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

Editor's notes. — Uniform Law: This sec-

tion is based on § 407 of the Uniform Limited Cooperative Association Act.

Subchapter V. Members.

§ 29-1005.01. Members.

To begin business, a limited cooperative association shall have at least 2 patron members unless the sole member is a cooperative.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 501 of the Uniform Limited Cooperative Association Act.

§ 29-1005.02. Becoming member.

(a) If a limited cooperative association is to have only one cooperative member upon formation, the cooperative becomes a member as agreed by that cooperative and the organizer of the limited cooperative association. That cooperative and the organizer may be, but need not be, different persons. If different, the organizer acts on behalf of the initial cooperative member.

(b) If a limited cooperative association is to have more than one member upon formation, those persons become members as agreed by the persons before the formation of the limited cooperative association. The organizer acts on behalf of the persons in forming the limited cooperative association and may be, but need not be, one of the persons.

(c) After formation of a limited cooperative association, a person becomes a member:

- (1) As provided in the organic rules;
- (2) As the result of a transaction effective under subchapter XV of this chapter or Chapter 2 of this title;
- (3) With the consent of all the members; or
- (4) As provided in § 29-1012.02(3).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(4)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 502 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1005.03. No agency power of member as member.

(a) A member is not an agent of a limited cooperative association solely by reason of being a member.

(b) A person's status as a member does not prevent or restrict law other than

this chapter from imposing liability on a limited cooperative association because of the person's conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(4)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 503 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1005.04. Liability of members and managers.

(a) A debt, obligation, or other liability of a limited cooperative association is solely the debt, obligation, or other liability of the limited cooperative association. A member or manager of the limited cooperative association is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the association solely by reason of being or acting as a member or manager of the association. This subsection applies regardless of the dissolution of the association.

(b) The failure of a limited cooperative association to observe formalities relating to the exercise of its powers or management of its activities and affairs is not a ground for imposing liability on any member or manager of the association for any debt, obligation, or other liability of the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(4)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 504 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1005.05. Right of member and former member to information.

(a) On reasonable notice a member may inspect and copy, at the principal office or a reasonable location specified by the limited cooperative association, required information listed in § 29-1001.10(a)(1) through (8) during regular business hours. A member need not have any particular purpose for seeking the information. The association shall not be required to provide the same information listed in § 29-1001.10(a)(2) through (8) to the same member more than once during a 6-month period.

(b) On reasonable notice, a member may inspect and copy, at the principal office or a reasonable location specified by the limited cooperative association,

required information listed in § 29-1001.10(a)(9), (10), (12), (13), (16), and (18) during regular business hours, if:

(1) The member seeks the information in good faith and for a proper purpose reasonably related to the member's interest;

(2) The demand includes a description with reasonable particularity of the information sought and the purpose for seeking the information;

(3) The information sought is directly connected to the member's purpose; and

(4) The demand is reasonable.

(c) Not later than 10 business days after receipt of a demand pursuant to subsection (b) of this section, a limited cooperative association shall provide, in a record, the following information to the member that made the demand:

(1) If the association agrees to provide the demanded information:

(A) What information the association will provide in response to the demand; and

(B) A reasonable time and place at which the association will provide the information; or

(2) If the association declines to provide some or all of the demanded information, the association's reasons for declining.

(d) Not later than 10 business days after a limited cooperative association receives a demand made in a record, a dissociated member may have access to information to which the person was entitled while a member if the information pertains to the period during which the person was a member, the person seeks the information in good faith, and the person satisfies the requirements imposed on a member by subsection (b)(2) of this section. The association shall respond to a demand made pursuant to this subsection in the manner provided in subsection (c) of this section.

(e) Not later than 10 business days after receipt by a limited cooperative association of a demand made by a member in a record, but not more often than once in a 6-month period, the association shall deliver to the member a record stating the information with respect to the member required by § 29-1001.10(a)(17).

(f) In addition to any restriction or condition stated in its organic rules, a limited cooperative association, as a matter within the ordinary course of its activities and affairs, may impose reasonable restrictions and conditions on access to and use of information to be furnished under this section, including designating information as confidential and imposing nondisclosure and safeguarding obligations on the recipient. In a dispute concerning the reasonableness of a restriction under this subsection, the association shall have the burden of proving reasonableness.

(g) A limited cooperative association may charge a person that makes a demand under this section reasonable costs of copying, limited to the costs of labor and material.

(h) A member or dissociated member may exercise rights under this section through an agent or, in the case of an individual under legal disability, a legal representative. Any restriction or condition imposed by the organic rules or subsection (f) of this section applies both to the agent or legal representative and the member or dissociated member.

(i) The rights stated in this section shall not extend to a person as transferee.

(j) The organic rules may require a limited cooperative association to provide more information than required by this section and may establish conditions and procedures for providing the information.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(4)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.09, § 29-1011.03, and § 29-1013.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section and repealed former subsection (e) which read: “A limited cooperative association shall respond to a demand made pursuant to subsection (d) of this section in the manner provided in subsection (c) of this section.” and repealed former subsection (i) which read: “A person that may obtain information under this section may obtain the information through an attorney or other agent. A restriction imposed

on the person under subsection (g) of this section or by the organic rules shall apply to the attorney or other agent.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 505 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1005.06. Annual meeting of members.

(a) Members shall meet annually at a time provided in the organic rules or set by the board of directors not inconsistent with the organic rules.

(b) An annual members meeting may be held inside or outside the District at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.

(c) Unless the organic rules otherwise provide, members may attend or conduct an annual members meeting through any means of communication if all members attending the meeting can communicate with each other during the meeting.

(d) The board of directors shall report, or cause to be reported, at the association's annual members meeting the association's business and financial condition as of the close of the most recent fiscal year.

(e) Unless the organic rules otherwise provide, the board of directors shall designate the presiding officer of the association's annual members meeting.

(f) Failure to hold an annual members meeting shall not affect the validity of any action by the limited cooperative association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 506 of the Uniform Limited Cooperative Association Act.

§ 29-1005.07. Special meeting of members.

(a) A special meeting of members shall be called only:

- (1) As provided in the organic rules;
 - (2) By a majority vote of the board of directors on a proposal stating the purpose of the meeting;
 - (3) By demand in a record signed by members holding at least 20% of the voting power of the persons in any district or class entitled to vote on the matter that is the purpose of the meeting stated in the demand; or
 - (4) By demand in a record signed by members holding at least 10% of the total voting power of all the persons entitled to vote on the matter that is the purpose of the meeting stated in the demand.
- (b) A demand under subsection (a)(3) or (4) of this section shall be submitted to the officer of the limited cooperative association charged with keeping its records.
- (c) Any voting member may withdraw its demand under subsection (a)(3) or (4) of this section before receipt by the limited cooperative association of demands sufficient to require a special meeting of members.
- (d) A special meeting of members may be held inside or outside the District at the place stated in the organic rules or selected by the board of directors not inconsistent with the organic rules.
- (e) Unless the organic rules otherwise provide, members may attend or conduct a special meeting of members through the use of any means of communication if all members attending the meeting can communicate with each other during the meeting.
- (f) Only business within the purpose or purposes stated in the notice of a special meeting of members shall be conducted at the meeting.
- (g) Unless the organic rules otherwise provide, the presiding officer of a special meeting of members shall be designated by the board of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1005.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 507 of the Uniform Limited Cooperative Association Act.

§ 29-1005.08. Notice of members meeting.

- (a) A limited cooperative association shall notify each member of the time, date, and place of a members meeting at least 15, and not more than 60, days before the meeting.
- (b) Unless the articles of organization otherwise provide, notice of an annual members meeting need not include any purpose of the meeting.
- (c) Notice of a special meeting of members shall include each purpose of the meeting as contained in the demand under § 29-1005.07(a)(3) or (4) or as voted upon by the board of directors under § 29-1005.07(a)(2).
- (d) Notice of a members meeting shall be given in a record unless oral notice is reasonable under the circumstances.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1008.07, and § 29-1012.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 508 of the Uniform Limited Cooperative Association Act.

§ 29-1005.09. Waiver of members meeting notice.

(a) A member may waive notice of a members meeting before, during, or after the meeting.

(b) A member's participation in a members meeting shall be a waiver of notice of that meeting unless the member objects to the meeting at the beginning of the meeting or promptly upon the member's arrival at the meeting and does not thereafter vote for or assent to action taken at the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 509 of the Uniform Limited Cooperative Association Act.

§ 29-1005.10. Quorum of members.

Unless the organic rules otherwise require a greater number of members or percentage of the voting power, the voting member or members present at a members meeting shall constitute a quorum.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 510 of the Uniform Limited Cooperative Association Act.

§ 29-1005.11. Voting by patron members.

Except as otherwise provided by § 29-1005.12(a), each patron member shall have one vote. The organic rules may allocate voting power among patron members as provided in § 29-1005.12(a).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 511 of the Uniform Limited Cooperative Association Act.

§ 29-1005.12. Determination of voting power of patron member.

(a) The organic rules may allocate voting power among patron members on the basis of one or a combination of the following:

(1) One member, one vote;

(2) Use or patronage;

(3) Equity; or

(4) If a patron member is a cooperative, the number of its patron members.

(b) The organic rules may provide for the allocation of patron member voting power by districts or class, or any combination thereof.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1005.11.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 512 of the Uniform Limited Cooperative Association Act.

§ 29-1005.13. Voting by investor members.

If the organic rules provide for investor members, each investor member shall have one vote, unless the organic rules otherwise provide. The organic rules may provide for the allocation of investor member voting power by class, classes, or any combination of classes.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 513 of the Uniform Limited Cooperative Association Act.

§ 29-1005.14. Voting requirements for members.

If a limited cooperative association has both patron and investor members, the following rules shall apply:

(1) The total voting power of all patron members shall not be less than a majority of the entire voting power entitled to vote.

(2) Action on any matter shall be approved only upon the affirmative vote of at least a majority of:

(A) All members voting at the meeting unless more than a majority is required by subchapters IV, XII, XIV, or XV of this chapter or the organic rules; and

(B) Votes cast by patron members unless the organic rules require a larger affirmative vote by patron members.

(3) The organic rules may provide for the percentage of the affirmative votes that must be cast by investor members to approve the matter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1004.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 514 of the Uniform Limited Cooperative Association Act.

§ 29-1005.15. Manner of voting.

(a) Unless the organic rules otherwise provide, voting by a proxy at a members meeting shall be prohibited. This subsection shall not prohibit delegate voting based on district or class.

(b) If voting by a proxy is permitted, a patron member shall appoint only another patron member as a proxy and, if investor members are permitted, an investor member shall appoint only another investor member as a proxy.

(c) The organic rules may provide for the manner of, and provisions governing, the appointment of a proxy.

(d) The organic rules may provide for voting on any question by ballot delivered by mail or voting by other means on questions that are subject to vote by members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 515 of the Uniform Limited Cooperative Association Act.

§ 29-1005.16. Action without a meeting.

(a) Unless the organic rules require that action be taken only at a members meeting, any action that may be taken by the members may be taken without a meeting if each member entitled to vote on the action consents in a record to the action.

(b) Consent under subsection (a) of this section may be withdrawn by a member in a record at any time before the limited cooperative association receives a consent from each member entitled to vote.

(c) Consent to any action may specify the effective date or time of the action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1008.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 516 of the Uniform Limited Cooperative Association Act.

§ 29-1005.17. Districts and delegates; classes of members.

(a) The organic rules may provide for the formation of geographic districts of patron members and:

(1) For the conduct of patron member meetings by districts and the election of directors at the meetings; or

(2) That districts may elect district delegates to represent and vote for the district at members meetings.

(b) A delegate elected under subsection (a)(2) of this section shall have one vote unless voting power is otherwise allocated by the organic rules.

(c) The organic rules may provide for the establishment of classes of members, for the preferences, rights, and limitations of the classes, and:

(1) For the conduct of members meetings by classes and the election of directors at the meetings; or

(2) That classes may elect class delegates to represent and vote for the class in members meetings.

(d) A delegate elected under subsection (c)(2) of this section shall have one vote unless voting power is otherwise allocated by the organic rules.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1008.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 517 of the Uniform Limited Cooperative Association Act.

Subchapter VI. Member's Interest in Limited Cooperative Association.

§ 29-1006.01. Member's interest.

A member's interest shall:

(1) Be personal property;

(2) Consist of:

(A) Governance interests;

(B) Financial rights; and

(C) The right or obligation, if any, to do business with the limited cooperative association; and

(3) May be in certificated or uncertificated form.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 601 of the Uniform Limited Cooperative Association Act.

§ 29-1006.02. Patron and investor members' interests.

(a) Unless the organic rules establish investor members' interests, a member's interest shall be a patron member's interest.

(b) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, while a person is a member of the association, the person, if admitted as:

(1) A patron member, shall remain a patron member;

(2) An investor member, shall remain an investor member; and

(3) A patron member and investor member, shall remain a patron and investor member if not dissociated in one of the capacities.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 602 of the Uniform Limited Cooperative Association Act.

§ 29-1006.03. Transferability of member's interest.

(a) The provisions of this chapter relating to the transferability of a member's interest shall be subject to Subtitle I of Title 28.

(b) Unless the organic rules otherwise provide, a member's interest other than financial rights shall not be transferable.

(c) Unless a transfer is restricted or prohibited by the organic rules, a member may transfer its financial rights in the limited cooperative association.

(d) The terms of any restriction on transferability of financial rights shall be:

(1) Set forth in the organic rules and the member records of the association; and

(2) Conspicuously noted on any certificates evidencing a member's interest.

(e) A transferee of a member's financial rights, to the extent the rights are transferred, shall have the right to share in the allocation of profits or losses and to receive the distributions to the member transferring the interest to the same extent as the transferring member.

(f) A transferee of a member's financial rights shall not become a member upon transfer of the rights unless the transferee is admitted as a member by the limited cooperative association.

(g) A limited cooperative association need not give effect to a transfer under this section until the association has notice of the transfer.

(h) A transfer of a member's financial rights in violation of a restriction on transfer contained in the organic rules shall be ineffective as to a person having notice of the restriction at the time of transfer.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1006.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 603 of the Uniform Limited Cooperative Association Act.

§ 29-1006.04. Security interest and set-off.

(a) A member or transferee may create an enforceable security interest in its financial rights in a limited cooperative association.

(b) Unless the organic rules otherwise provide, a member shall not create an

enforceable security interest in the member's governance interests in a limited cooperative association.

(c) The organic rules may provide that a limited cooperative association has a security interest in the financial rights of a member to secure payment of any indebtedness or other obligation of the member to the association. A security interest provided for in the organic rules shall be enforceable under, and governed by, Article 9 of Subtitle I of Title 28.

(d) Unless the organic rules otherwise provide, a member shall not compel the limited cooperative association to offset financial rights against any indebtedness or obligation owed to the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 604 of the Uniform Limited Cooperative Association Act.

§ 29-1006.05. Charging order.

(a) On application by a judgment creditor of a member or transferee, a court may enter a charging order against the financial rights of the judgment debtor for the unsatisfied amount of the judgment. Except as otherwise provided in subsection (b) of this section, a charging order constitutes a lien on the judgment debtor's financial rights and require the limited cooperative association to pay over to the person to whom the charging order was issued any distribution that would otherwise be paid to the judgment debtor.

(b) To the extent necessary to effectuate the collection of distributions pursuant to a charging order under subsection (a) of this section, the court may:

(1) Appoint a receiver of the distributions subject to the charging order with the power to make all inquiries the judgment debtor might have made; and

(2) Make all other orders necessary to give effect to the charging order.

(c) Upon a showing that distributions under a charging order will not pay the judgment debt within a reasonable time, the court may foreclose the lien and order the sale of the financial rights. Except as otherwise provided in subsection (f) of this section, the purchaser at the foreclosure sale shall obtain only the financial rights that are subject to the charging order, shall not thereby become a member, and shall be subject to § 29-1006.03.

(d) At any time before a foreclosure under subsection (c) of this section, a member or transferee whose financial rights are subject to a charging order under subsection (a) of this subsection may extinguish the charging order by satisfying the judgment and filing a certified copy of the satisfaction with the court that issued the charging order.

(e) At any time before foreclosure under subsection (c) of this section, the limited cooperative association or one or more members whose financial rights are not subject to the charging order may pay to the judgment creditor the full amount due under the judgment and thereby succeed to the rights of the judgment creditor, including the charging order.

(f) If a court forecloses a charging order lien against the sole member of a limited cooperative association:

(1) The court shall confirm the sale;

(2) The purchaser at the sale obtains the member's entire interest, not only the member's financial rights;

(3) The purchaser thereby becomes a member; and

(4) The person whose interest was subject to the foreclosed charging order is dissociated as a member.

(g) This chapter shall not deprive any member or transferee of the benefit of any exemption laws applicable to the member's or transferee's financial rights.

(h) This section provides the exclusive remedy by which a person seeking to enforce a judgment against a member or transferee, in the capacity of judgment creditor, may satisfy the judgment from the member's or transferee's financial rights.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(5), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1011.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 605 of the Uniform Limited Cooperative Association Act. Edition

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VII. Marketing Contracts.

§ 29-1007.01. Authority.

For the purposes of this subchapter, the term “marketing contract” means a contract between a limited cooperative association and another person, that need not be a patron member:

(1) Requiring the other person to sell, or deliver for sale or marketing on the person's behalf, a specified part of the person's products, commodities, or goods exclusively to or through the association or any facilities furnished by the association; or

(2) Authorizing the association to act for the person in any manner with respect to the products, commodities, or goods.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 701 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1007.02. Marketing contracts.

(a) If a marketing contract provides for the sale of products, commodities, or goods to a limited cooperative association, the sale shall transfer title to the

association upon delivery or at any other specific time expressly provided by the contract.

(b) A marketing contract may:

(1) Authorize a limited cooperative association to create an enforceable security interest in the products, commodities, or goods delivered; and

(2) Allow the association to sell the products, commodities, or goods delivered, and pay the sales price, on a pooled or other basis after deducting selling costs, processing costs, overhead, expenses, and other charges.

(c) Some or all of the provisions of a marketing contract between a patron member and a limited cooperative association may be contained in the organic rules.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 702 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1007.03. Duration of marketing contract.

The initial duration of a marketing contract shall not exceed 10 years, but the contract may be self-renewing for additional periods not exceeding 5 years each. Unless the contract provides for another manner or time for termination, either party may terminate the contract by giving notice in a record at least 90 days before the end of the current term.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 703 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1007.04. Remedies for breach of contract.

(a) Damages to be paid to a limited cooperative association for breach or anticipatory repudiation of a marketing contract may be liquidated, but only at an amount or under a formula that is reasonable in light of the actual or anticipated harm caused by the breach or repudiation. A provision that so provides shall not be a penalty.

(b) Upon a breach of a marketing contract, whether by anticipatory repudiation or otherwise, a limited cooperative association may seek:

(1) An injunction to prevent further breach; and

(2) Specific performance.

(c) The remedies in this section are in addition to any other remedies available to an association under law other than this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 18-378. — For

Editor's notes. — Uniform Law: This sec-

tion is based on § 704 of the Uniform Limited Cooperative Association Act. Edition

Subchapter VIII. Directors and Officers.

§ 29-1008.01. Board of directors.

(a) A limited cooperative association shall have a board of directors of at least 3 individuals, unless the association has fewer than 3 members. If the association has fewer than 3 members, the number of directors shall not be fewer than the number of members.

(b) The affairs of a limited cooperative association shall be managed by, or under the direction of, the board of directors. The board may adopt policies and procedures that do not conflict with the organic rules or this chapter.

(c) An individual shall not be an agent for a limited cooperative association solely by being a director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 801 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.02. No liability as director for limited cooperative association's obligations.

A debt, obligation, or other liability of a limited cooperative association shall be solely that of the association and shall not be a debt, obligation, or liability of a director solely by reason of being a director. An individual shall not be personally liable, directly or indirectly, for an obligation of an association solely by reason of being a director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 802 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.03. Qualifications of directors.

(a) Unless the organic rules otherwise provide, and subject to subsection (c) of this section, each director of a limited cooperative association shall be an individual who is a member of the association or an individual who is designated by a member that is not an individual for purposes of qualifying and serving as a director. Initial directors need not be members.

(b) Unless the organic rules otherwise provide, a director may be an officer or employee of the limited cooperative association.

(c) If the organic rules provide for nonmember directors, the number of nonmember directors shall not exceed:

- (1) One, if there are 2 through 4 directors;
- (2) Two, if there are 5 through 8 directors; or

(3) One-third of the total number of directors if there are at least 9 directors.

(d) The organic rules may provide qualifications for directors in addition to those in this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 803 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.04. Election of directors and composition of board.

(a) Unless the organic rules require a greater number:

(1) The number of directors that shall be patron members may not be fewer than:

(A) One, if there are 2 or 3 directors;

(B) Two, if there are 4 or 5 directors;

(C) Three if there are 6 through 8 directors; or

(D) One-third of the directors if there are at least 9 directors; and

(2) A majority of the board of directors shall be elected exclusively by patron members.

(b) Unless the organic rules otherwise provide, if a limited cooperative association has investor members, the directors who are not elected exclusively by patron members shall be elected by the investor members.

(c) Subject to subsection (a) of this section, the organic rules may provide for the election of all or a specified number of directors by one or more districts or classes of members.

(d) Subject to subsection (a) of this section, the organic rules may provide for the nomination or election of directors by districts or classes, directly or by district delegates.

(e) If a class of members consists of a single member, the organic rules may provide for the member to appoint a director or directors.

(f) Unless the organic rules otherwise provide, cumulative voting for directors shall be prohibited.

(g) Except as otherwise provided in the organic rules, subsection (e) of this section, or §§ 29-1003.03, 29-1005.16, 29-1005.17, and 29-1008.09, member directors shall be elected at an annual members meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 804 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.05. Term of director.

(a) Unless the organic rules otherwise provide, and subject to subsections (c)

and (d) and § 29-1003.03(c), the term of a director shall expire at the annual members meeting following the director's election or appointment. The term of a director shall not exceed 3 years.

(b) Unless the organic rules otherwise provide, a director may be reelected.

(c) Except as otherwise provided in subsection (d) of this section, a director shall continue to serve until a successor director is elected or appointed and qualifies or the director is removed, resigns, is adjudged incompetent, or dies.

(d) Unless the organic rules otherwise provide, a director shall not serve the remainder of the director's term if the director ceases to qualify to be a director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 805 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.06. Resignation of director.

A director may resign at any time by giving notice in a record to the limited cooperative association. Unless the notice states a later effective date, a resignation shall be effective when the notice is received by the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 806 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.07. Removal of director.

Unless the organic rules otherwise provide, the following rules shall apply:

(1) Members may remove a director with or without cause.

(2) A member or members holding at least 10% of the total voting power entitled to be voted in the election of a director may demand removal of the director by one or more signed petitions submitted to the officer of the limited cooperative association charged with keeping its records.

(3) Upon receipt of a petition for removal of a director, an officer of the association or the board of directors shall:

(A) Call a special meeting of members to be held not later than 90 days after receipt of the petition by the association; and

(B) Mail or otherwise transmit or deliver in a record to the members entitled to vote on the removal, and to the director to be removed, notice of the meeting which complies with § 29-1005.08.

(4) A director shall be removed if the votes in favor of removal are equal to or greater than the votes required to elect the director.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 807 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.08. Suspension of director by board.

(a) A board of directors may suspend a director if, considering the director's course of conduct and the inadequacy of other available remedies, immediate suspension is necessary for the best interests of the association and the director is engaging, or has engaged, in:

- (1) Fraudulent conduct with respect to the association or its members;
- (2) Gross abuse of the position of director;
- (3) Intentional or reckless infliction of harm on the association; or
- (4) Any other behavior, act, or omission as provided by the organic rules.

(b) A suspension under subsection (a) of this section shall be effective for 30 days unless the board of directors calls, and gives notice of, a special meeting of members for removal of the director before the end of the 30-day period, in which case the suspension shall be effective until adjournment of the meeting or the director is removed.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 808 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.09. Vacancy on board.

(a) Unless the organic rules otherwise provide, a vacancy on the board of directors shall be filled:

(1) Within a reasonable time by majority vote of the remaining directors until the next annual members meeting or a special meeting of members called to fill the vacancy; and

(2) For the unexpired term by members at the next annual members meeting or a special meeting of members called to fill the vacancy.

(b) Unless the organic rules otherwise provide, if a vacating director was elected or appointed by a class of members or a district:

(1) The new director shall be of that class or district; and

(2) The selection of the director for the unexpired term shall be conducted in the same manner as would the selection for that position without a vacancy.

(c) If a member appointed a vacating director, the organic rules may provide for that member to appoint a director to fill the vacancy.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1008.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 809 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.10. Remuneration of directors.

Unless the organic rules otherwise provide, the board of directors may set

the remuneration of directors and of nondirector committee members appointed under § 29-1008.17(a).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 810 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.11. Meetings.

(a) A board of directors shall meet at least annually and may hold meetings inside or outside the District.

(b) Unless the organic rules otherwise provide, a board of directors may permit directors to attend or conduct board meetings through the use of any means of communication if all directors attending the meeting can communicate with each other during the meeting.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 811 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.12. Action without meeting.

(a) Unless prohibited by the organic rules, any action that may be taken by a board of directors may be taken without a meeting if each director consents in a record to the action.

(b) Consent under subsection (a) of this section may be withdrawn by a director in a record at any time before the limited cooperative association receives consent from all directors.

(c) A record of consent for any action under subsection (a) of this section may specify the effective date or time of the action.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 812 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.13. Meetings and notice.

(a) Unless the organic rules otherwise provide, a board of directors may establish a time, date, and place for regular board meetings, and notice of the time, date, place, or purpose of those meetings shall not be required.

(b) Unless the organic rules otherwise provide, notice of the time, date, and place of a special meeting of a board of directors shall be given to all directors

at least 3 days before the meeting, the notice shall contain a statement of the purpose of the meeting, and the meeting shall be limited to the matters contained in the statement.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1008.14.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 813 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.14. Waiver of notice of meeting.

(a) Unless the organic rules otherwise provide, a director may waive any required notice of a meeting of the board of directors in a record before, during, or after the meeting.

(b) Unless the organic rules otherwise provide, a director's participation in a meeting shall be a waiver of notice of that meeting unless the director:

(1) Objects to the meeting at the beginning of the meeting or promptly upon the director's arrival at the meeting and does not thereafter vote in favor of or otherwise assent to the action taken at the meeting; or

(2) Promptly objects upon the introduction of any matter for which notice under § 29-1008.13 has not been given and does not thereafter vote in favor of or otherwise assent to the action taken on the matter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1008.15.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 814 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.15. Quorum.

(a) Unless the articles of organization provide for a greater number, a majority of the total number of directors specified by the organic rules shall constitute a quorum for a meeting of the directors.

(b) If a quorum of the board of directors is present at the beginning of a meeting, any action taken by the directors present shall be valid even if withdrawal of directors originally present results in the number of directors being fewer than the number required for a quorum.

(c) A director present at a meeting but objecting to notice under § 29-1008.14(b)(1) or (2) shall not count toward a quorum.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 815 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.16. Voting.

(a) Each director shall have one vote for purposes of decisions made by the board of directors.

(b) Unless the organic rules otherwise provide, the affirmative vote of a majority of directors present at a meeting shall be required for action by the board of directors.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 816 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.17. Committees.

(a) Unless the organic rules otherwise provide, a board of directors may create one or more committees and appoint one or more individuals to serve on a committee.

(b) Unless the organic rules otherwise provide, an individual appointed to serve on a committee of a limited cooperative association need not be a director or member.

(c) An individual who is not a director and is serving on a committee shall have the same rights, duties, and obligations as a director serving on the committee.

(d) Unless the organic rules otherwise provide each committee of a limited cooperative association may exercise the powers delegated to it by the board of directors, but a committee shall not:

(1) Approve allocations or distributions except according to a formula or method prescribed by the board of directors;

(2) Approve or propose to members action requiring approval of members; or

(3) Fill vacancies on the board of directors or any of its committees.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1008.10, and § 29-1008.21.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 817 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.18. Standards of conduct and liability.

Except as otherwise provided in § 29-1008.20:

(1) The discharge of the duties of a director or member of a committee of the board of directors shall be governed by the law applicable to directors of entities organized under Chapter 3 of this title; and

(2) The liability of a director or member of a committee of the board of

directors shall be governed by the law applicable to directors of entities organized under Chapter 3 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1001.11, and § 29-1010.08.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 818 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.19. Conflict of interest.

(a) The law applicable to conflicts of interest between a director of an entity organized under Chapter 3 of this title shall govern conflicts of interest between a limited cooperative association and a director or member of a committee of the board of directors.

(b) A director shall not have a conflict of interest under this chapter or the organic rules solely because the director's conduct relating to the duties of the director may further the director's own interest.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.11.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 819 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.20. Other considerations of directors.

Unless the articles of organization otherwise provide, in considering the best interests of a limited cooperative association, a director of the association in discharging the duties of director, in conjunction with considering the long and short term interest of the association and its patron members, may consider:

- (1) The interest of employees, customers, and suppliers of the association;
- (2) The interest of the community in which the association operates; and
- (3) Other cooperative principles and values that may be applied in the context of the decision.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1008.18.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 820 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.21. Right of director or committee member to information.

A director or a member of a committee appointed under § 29-1008.17 may obtain, inspect, and copy all information regarding the state of activities and

financial condition of the limited cooperative association and other information regarding the activities of the association if the information is reasonably related to the performance of the director's duties as director or the committee member's duties as a member of the committee. Information obtained in accordance with this section shall not be used in any manner that would violate any duty of or to the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 821 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.22. Appointment and authority of officers.

(a) A limited cooperative association shall have the officers:

(1) Provided in the organic rules; or

(2) Established by the board of directors in a manner not inconsistent with the organic rules.

(b) The organic rules may designate or, if the rules do not designate, the board of directors shall designate, one of the association's officers for preparing all records required by § 29-1001.10 and for the authentication of records.

(c) Unless the organic rules otherwise provide, the board of directors shall appoint the officers of the limited cooperative association.

(d) Officers of a limited cooperative association shall perform the duties the organic rules prescribe or as authorized by the board of directors not in a manner inconsistent with the organic rules.

(e) The election or appointment of an officer of a limited cooperative association shall not of itself create a contract between the association and the officer.

(f) Unless the organic rules otherwise provide, an individual may simultaneously hold more than one office in a limited cooperative association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 822 of the Uniform Limited Cooperative Association Act. Edition

§ 29-1008.23. Resignation and removal of officers.

(a) The board of directors may remove an officer at any time with or without cause.

(b) An officer of a limited cooperative association may resign at any time by giving notice in a record to the association. Unless the notice specifies a later time, the resignation shall be effective when the notice is given.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 823 of the Uniform Limited Cooperative Association Act. Edition

Subchapter IX. Indemnification.

§ 29-1009.01. Indemnification.

(a) Indemnification of an individual who has incurred liability or is a party, or is threatened to be made a party, to litigation because of the performance of a duty to, or activity on behalf of, a limited cooperative association shall be governed by Chapter 3 of this title.

(b) A limited cooperative association may purchase insurance on behalf of any individual against liability asserted against or incurred by the individual to the same extent, and subject to the same conditions, as provided by Chapter 3 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 901 of the Uniform Limited Cooperative Association Act. Edition

Subchapter X. Contributions, Allocations, and Distributions.

§ 29-1010.01. Members' contributions.

The organic rules shall establish the amount, manner, or method of determining any contribution requirements for members or shall authorize the board of directors to establish the amount, manner, or other method of determining any contribution requirements for members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1001 of the Uniform Limited Cooperative Association Act.

§ 29-1010.02. Contribution and valuation.

(a) Unless the organic rules otherwise provide, the contributions of a member to a limited cooperative association may consist of tangible or intangible property or other benefit to the association, including money, labor or other services performed or to be performed, promissory notes, other agreements to contribute money or property, and contracts to be performed.

(b) The receipt and acceptance of contributions and the valuation of contributions shall be reflected in a limited cooperative association's records.

(c) Unless the organic rules otherwise provide, the board of directors shall determine the value of a member's contributions received or to be received and

the determination by the board of directors of valuation shall be conclusive for purposes of determining whether the member's contribution obligation has been met.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1002 of the Uniform Limited Cooperative Association Act.

§ 29-1010.03. Contribution agreements.

(a) Except as otherwise provided in the agreement, the following rules shall apply to an agreement made by a person before formation of a limited cooperative association to make a contribution to the association:

(1) The agreement shall be irrevocable for 6 months after the agreement is signed by the person unless all parties to the agreement consent to the revocation.

(2) If a person does not make a required contribution:

(A) The person shall be obligated, at the option of the association, once formed, to contribute money equal to the value of that part of the contribution that has not been made, and the obligation may be enforced as a debt to the association; or

(B) The association, once formed, may rescind the agreement if the debt remains unpaid more than 20 days after the association demands payment from the person, and, upon rescission, the person shall have no further rights or obligations with respect to the association.

(b) Unless the organic rules or an agreement to make a contribution to a limited cooperative association otherwise provide, if a person does not make a required contribution to an association, the person or the person's estate shall be obligated, at the option of the association, to contribute money equal to the value of the part of the contribution which has not been made.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1003 of the Uniform Limited Cooperative Association Act.

§ 29-1010.04. Allocations of profits and losses.

(a) The organic rules may provide for allocating profits of a limited cooperative association among members, among persons that are not members but conduct business with the association, to an unallocated account, or to any combination thereof. Unless the organic rules otherwise provide, losses of the association shall be allocated in the same proportion as profits.

(b) Unless the organic rules otherwise provide, all profits and losses of a limited cooperative association shall be allocated to patron members.

(c) If a limited cooperative association has investor members, the organic rules shall not reduce the allocation to patron members to less than 50% of profits. For purposes of this subsection, the following rules shall apply:

(1) Amounts paid or due on contracts for the delivery to the association by patron members of products, goods, or services shall not be considered amounts allocated to patron members.

(2) Amounts paid, due, or allocated to investor members as a stated fixed return on equity shall not be considered amounts allocated to investor members.

(d) Unless prohibited by the organic rules, in determining the profits for allocation under subsections (a), (b), and (c) of this section, the board of directors may first deduct and set aside a part of the profits to create or accumulate:

(1) An unallocated capital reserve; and

(2) Reasonable unallocated reserves for specific purposes, including:

(A) Expansion and replacement of capital assets;

(B) Education, training, and cooperative development;

(C) Creation and distribution of information concerning principles of cooperation; and

(D) Community responsibility.

(e) Subject to subsections (b) and (f) of this section and the organic rules, the board of directors shall allocate the amount remaining after any deduction or setting aside of profits for unallocated reserves under subsection (d) of this section to:

(1) Patron members in the ratio of each member's patronage to the total patronage of all patron members during the period for which allocations are to be made; and

(2) Investor members, if any, in the ratio of each investor member's contributions to the total contributions of all investor members.

(f) For purposes of allocation of profits and losses or specific items of profits or losses of a limited cooperative association to members, the organic rules may establish allocation units or methods based on separate classes of members or, for patron members, on class, function, division, district, department, allocation units, pooling arrangements, members' contributions, or other equitable methods.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1004 of the Uniform Limited Cooperative Association Act.

§ 29-1010.05. Distributions.

(a) Unless the organic rules otherwise provide and subject to § 29-1010.07, the board of directors may authorize, and the limited cooperative association may make, distributions to members.

(b) Unless the organic rules otherwise provide, distributions to members may be made in any form, including money, capital credits, allocated patronage equities, revolving fund certificates, and the limited cooperative association's own or other securities.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1005 of the Uniform Limited Cooperative Association Act.

§ 29-1010.06. Redemption or repurchase.

Property distributed to a member by a limited cooperative association, other than money, maybe redeemed or repurchased as provided in the organic rules, but a redemption or repurchase shall not be made without authorization by the board of directors. The board may withhold authorization for any reason in its sole discretion. A redemption or repurchase shall be treated as a distribution for purposes of § 29-1010.07.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1006 of the Uniform Limited Cooperative Association Act.

§ 29-1010.07. Limitations on distributions.

(a) A limited cooperative association shall not make a distribution, including a distribution under § 29-1012.07 if, after the distribution:

(1) The association would not be able to pay its debts as they become due in the ordinary course of the association's activities and affairs; or

(2) The association's total assets would be less than the sum of its total liabilities plus the amount that would be needed, if the association were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of members whose preferential rights are superior to those of persons receiving the distribution.

(b) A limited cooperative association may base a determination that a distribution is not prohibited under subsection (a) of this section on financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances or on a fair valuation or other method that is reasonable in the circumstances.

(c) Except as otherwise provided in subsection (d) of this section, the effect of a distribution allowed under subsection (b) of this section shall be measured:

(1) In the case of distribution by purchase, redemption, or other acquisition of financial rights in the limited cooperative association, as of the earlier of the date money or other property is transferred or debt is incurred by the association or the date the person entitled to the distribution ceases to own the financial rights being acquired by the association in return for the distribution;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed;

(3) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs not later than 120 days after that date; or

(B) The payment is made, if payment occurs more than 120 days after the distribution is authorized.

(d) A limited cooperative association's indebtedness incurred by reason of a distribution made in accordance with this section is at parity with the association's indebtedness to its general, unsecured creditors except to the extent subordinated by agreement.

(e) A limited cooperative association's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest is made only if and to the extent that payment of a distribution could then be made under this section. If the indebtedness is issued as a distribution, each payment of principal or interest on the indebtedness shall [be] treated as a distribution, the effect of which is measured on the date the payment is made.

(f) In measuring the effect of a distribution under § 29-1012.07, the liabilities of a dissolved limited cooperative association do not include any claim that has been disposed of under §§ 29-1012.08, 29-1012.09, and 29-1012.10.

(g) For purposes of this section, the term "distribution" shall not include reasonable amounts paid to a member in the ordinary course of business as payment or compensation for commodities, goods, past or present services, or reasonable payments made in the ordinary course of business under a bona fide retirement or other benefits program.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(6)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.02, § 29-1010.05, § 29-1010.06, and § 29-1010.08.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1007 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1010.08. Liability for improper distributions; limitation of action.

(a) Except as otherwise provided in subsection (b) of this section, if a director of a limited cooperative association consents to a distribution made in violation of § 29-1010.07 and in consenting to the distribution fails to comply with § 29-1008.18, the director is personally liable to the association for the amount of the distribution that exceeds the amount which could have been distributed without violating § 29-1010.07.

(b) A person that receives a distribution knowing that the distribution was made in violation of § 29-1010.07 shall be personally liable to the limited

cooperative association to the extent the distribution exceeded the amount that could have been properly paid.

(c) A director against whom an action is commenced under subsection (a) of this section may implead in the action any:

(1) Other person who is liable under subsection (a) of this section and seek to enforce a right of contribution from the person; and

(2) Person that receives a distribution in violation of subsection (b) of this section and may seek to enforce a right of contribution from the person in the amount the person received in violation [of] subsection (b) of this section.

(d) An action under this section shall be barred if it is commenced later than 2 years after the distribution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(6)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (a); substituted “person that receives” for “member or transferee of financial rights which received” in (b); and rewrote (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor’s notes. — Uniform Law: This section is based on § 1008 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter XI. Dissociation.

§ 29-1011.01. Member’s dissociation.

(a) A person has the power to dissociate as a member at any time.

(b) A member’s dissociation from a limited cooperative association shall be wrongful only if the dissociation:

(1) Breaches an express provision of the organic rules; or

(2) Occurs before the termination of the limited cooperative association and:

(A) The person is expelled as a member under subsection (d)(3) or (4) of this subsection; or

(B) In the case of a person that is not an individual, trust other than a business trust, or estate, the person is expelled or otherwise dissociated as a member because it dissolved or terminated in bad faith.

(c) Unless the organic rules otherwise provide, a person that wrongfully dissociates as a member shall be liable to the limited cooperative association and to the other members for damages caused by the dissociation. The liability shall be in addition to any other debt, obligation, or liability of the person to the association.

(d) A member shall be dissociated from the limited cooperative association as a member when:

(1) The association receives notice in a record of the member’s express will to dissociate as a member or, if the member specifies in the notice an effective date later than the date the association received notice, on that later date;

(2) An event stated in the organic rules as causing the member's dissociation as a member occurs;

(3) The member is expelled as a member under the organic rules;

(4) The member is expelled as a member by the board of directors because:

(A) It is unlawful to carry on the association's activities and affairs with the member as a member;

(B) There has been a transfer of all the member's financial rights in the association, other than:

(i) A creation or perfection of a security interest; or

(ii) A charging order in effect under § 29-1006.05 which has not been foreclosed;

(C) The member is a limited liability company, association, or partnership which has been dissolved and its business is being wound up; or

(D) The member is a corporation or cooperative and:

(i) The member filed a certificate of dissolution, or the equivalent, or the jurisdiction of formation revoked the association's charter or right to conduct business;

(ii) The association sends a notice to the member that it will be expelled as a member for a reason described in sub-subparagraph (i) of this subparagraph; and

(iii) Not later than 90 days after the notice was sent under subparagraph (ii), the member did not revoke its certificate of dissolution, or the equivalent, or the jurisdiction of formation did not reinstate the association's charter or right to conduct business; or

(E) The member is an individual and is adjudged incompetent;

(5) In the case of a member who is an individual, the individual dies;

(6) In the case of a member that is a trust or is acting as a member by virtue of being a trustee of a trust, all the trust's financial rights in the association are distributed;

(7) In the case of a member that is an estate, the estate's entire financial interest in the association is distributed;

(8) In the case of a member that is not an individual, partnership, limited liability company, cooperative, corporation, trust, or estate, the member is terminated;

(9) The association participates in a merger if, under the plan of merger as approved under subchapter XV of this chapter, the member ceases to be a member; or

(10) The association participates in a transaction under Subchapter [subchapter] XV of this chapter or Chapter 2 of this title if, under the terms of the transaction, the association ceases to exist in the form of a limited cooperative association or the member ceases to be a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(7)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted

"has the power to dissociate as a member at any time" for "shall have the power to dissociate as a member at any time, rightfully or wrongfully, by express will" in (a); substituted "A" for "Un-

less the organic rules otherwise provide, a" at the beginning of (b); substituted "limited cooperative association and to the other members" for "limited cooperative association" in (c); substituted "activities and affairs" for "activities" in (d)(4)(A); and substituted "Subchapter XV of this chapter or Chapter 2" for "Chapter 2" in (d)(10).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1101 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1011.02. Effect of dissociation as member.

(a) Upon a member's dissociation:

(1) The person's right to participate as a member in the management and conduct of the association's activities and affairs terminates; and

(2) Subject to § 29-1011.03, subchapter XV of this chapter, and Chapter 2 of this title, any financial rights owned by the person in the person's capacity as a member are owned by the person as a transferee.

(b) A person's dissociation as a member shall not of itself discharge the person from any debt, obligation, or other liability to the limited cooperative association or to the members which the person incurred while a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(7)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1102 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1011.03. Power of legal representative of member.

Unless the organic rules provide for greater rights, if a member is dissociated because of death, dies or is expelled by reason of being adjudged incompetent, the member's personal representative or other legal representative may exercise the rights of a transferee of the member's financial rights and, for purposes of settling the estate of a deceased member, may exercise the informational rights of a current member to obtain information under § 29-1005.05.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(7)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1011.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "legal representative" for "estate" in the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 1103 of the Uniform Limited Cooperative Association Act.

Law 19-210 provided that the act shall apply as of January 1, 2012.

Application of Law 19-210: Section 7 of D.C.

Subchapter XII. Dissolution.

§ 29-1012.01. Dissolution and winding up.

A limited cooperative association shall be dissolved only as provided in this subchapter and, upon dissolution, wind up in accordance with this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

§ 29-1012.02. Nonjudicial dissolution.

Except as otherwise provided in §§ 29-1012.03 and 29-106.02, a limited cooperative association is dissolved and its activities shall be wound up:

(1) Upon the occurrence of an event or at a time specified in the articles of organization;

(2) Upon the action of the association's organizers, board of directors, or members under § 29-1012.04 or § 29-1012.05; or

(3) Ninety days after the dissociation of a member, which results in the association having one patron member and no other members, unless the association:

(A) Has a sole member that is a cooperative; or

(B) Not later than the end of the 90-day period, admits at least one member in accordance with the organic rules and has at least 2 members, at least one of which is a patron member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1005.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1202 of the Uniform Limited Cooperative Association Act.

§ 29-1012.03. Judicial dissolution.

The Superior Court may dissolve a limited cooperative association or order any action that under the circumstances is appropriate and equitable in a proceeding initiated by:

(1) The Attorney General for the District of Columbia, if the association:

(A) Obtained its articles of organization through fraud; or

(B) Has continued to exceed or abuse the authority conferred upon it by law; or

(2) A member, if:

(A) The directors are deadlocked in the management of the association's affairs, the members are unable to break the deadlock, and irreparable injury to the association is occurring or is threatened because of the deadlock;

(B) The directors or those in control of the association have acted, are acting, or will act in a manner that is illegal, oppressive, or fraudulent;

(C) The members are deadlocked in voting power and have failed to elect successors to directors whose terms have expired for 2 consecutive periods during which annual members meetings were held or were to be held; or

(D) The assets of the association are being misapplied or wasted.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1012.02 and § 29-1012.13.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1203 of the Uniform Limited Cooperative Association Act.

§ 29-1012.04. Voluntary dissolution before commencement of activity.

A majority of the organizers or initial directors of a limited cooperative association that has not yet begun business activity or the conduct of its affairs may dissolve the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1012.02 and § 29-1012.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1204 of the Uniform Limited Cooperative Association Act.

§ 29-1012.05. Voluntary dissolution by the board and members.

(a) Except as otherwise provided in § 29-1012.04, for a limited cooperative association to voluntarily dissolve:

(1) A resolution to dissolve shall be approved by a majority vote of the board of directors unless a greater percentage is required by the organic rules;

(2) The board of directors shall call a members meeting to consider the resolution, to be held not later than 90 days after adoption of the resolution; and

(3) The board of directors shall mail or otherwise transmit or deliver to each member in a record that complies with § 29-1005.08:

(A) The resolution required by paragraph (1) of this subsection;

(B) A recommendation that the members vote in favor of the resolution or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis of that determination; and

(C) Notice of the members meeting, which shall be given in the same manner as notice of a special meeting of members.

(b) Subject to subsection (c) of this section, a resolution to dissolve shall be approved by:

(1) At least $\frac{2}{3}$ of the voting power of members present at a members meeting called under subsection (a)(2) of this section; and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage.

(c) The organic rules may require that the percentage of votes under subsection (b)(1) of this section shall be:

(1) A different percentage that is not less than a majority of members voting at the meeting; or

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1012.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1205 of the Uniform Limited Cooperative Association Act.

§ 29-1012.06. Winding up.

(a) A dissolved limited cooperative association shall wind up its activities and affairs, and except as provided in § 29-1012.07, continue after dissolution only for the purpose of winding up.

(b) In winding up a limited cooperative association's activities, the board of directors:

(1) Shall discharge its liabilities, settle and close its activities, and marshal and distribute its assets; and

(2) May:

(A) Preserve the association or its property as a going concern for no more than a reasonable time;

(B) Prosecute and defend actions and proceedings;

(C) Settle disputes by mediation or arbitration;

(D) Deliver to the Mayor for filing a statement of termination stating the name of the company and that the company is terminated;

(E) Transfer the association's property; and

(F) Perform other acts necessary or appropriate to the winding up.

(c) After dissolution and upon application of a limited cooperative association, a member, or a holder of financial rights, the Superior Court may order judicial supervision of the winding up of the association, including the appointment of a person to wind up the association's activities, if:

(1) After a reasonable time, the association has not wound up its activities; or

(2) The applicant establishes other good cause.

(d) If a person is appointed pursuant to subsection (c) of this section to wind up the activities of a limited cooperative association, the association shall promptly deliver to the Mayor for filing an amendment to the articles of organization to reflect the appointment.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(8)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1002.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1206 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1012.07. Distribution of assets in winding up limited cooperative association.

(a) In winding up a limited cooperative association's activities and affairs, the association shall apply its assets to discharge its obligations to creditors, including members that are creditors. The association shall apply any remaining assets to pay, in money, the net amount distributable to members in accordance with their right to distributions under subsection (b) of this section.

(b)(1) Unless the organic rules otherwise provide, for the purposes of this subsection, the term "financial interests" means the amounts recorded in the names of members in the records of a limited cooperative association at the time a distribution is made, including amounts paid to become a member, amounts allocated but not distributed to members, and amounts of distributions authorized but not yet paid to members.

(2) Unless the organic rules otherwise provide, each member shall be entitled to a distribution from the association of any remaining assets in the proportion of the member's financial interests to the total financial interests of the members after all other obligations are satisfied.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(8)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1010.07 and § 29-1012.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "activities and affairs" for "business" in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1207 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1012.08. Known claims against dissolved limited cooperative association.

(a) Subject to subsection (d) of this section, a dissolved limited cooperative association may give notice of a known claim under subsection (b) of this section, which has the effect provided in subsection (c) of this section.

(b) A dissolved limited cooperative association may notify its known claimants of the dissolution in a record. The notice shall:

(1) Specify that a claim be in a record;

- (2) Specify the information required to be included in the claim;
- (3) Provide an address to which the claim must be sent;
- (4) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is received by the claimant; and
- (5) State that the claim will be barred if not received by the deadline.

(c) A claim against a dissolved limited cooperative association shall be barred if the requirements of subsection (b) of this section are met and:

(1) The association is not notified of the claimant's claim, in a record, by the deadline specified in the notice under subsection (b)(4) of this section;

(2) In the case of a claim that is timely received but rejected by the association, the claimant does not commence an action to enforce the claim against the association within 90 days after receipt of the notice of the rejection; or

(3) If a claim is timely received but is not accepted or rejected by the association within 120 days after the deadline for receipt of claims, the claimant does not commence an action to enforce the claim against the association within 90 days after the 120-day period.

(d) This section shall not apply to a claim based on an event occurring after the effective date of dissolution or a liability that is contingent on that date.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(8)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1010.07, § 29-1012.09, and § 29-1012.10.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “give notice of a known claim under subsection (b) of this section, which has the effect provided in subsection (c) of this section” for “dispose of the known claims against it by following the procedure in subsections (b) and (c) of this section” in (a); and substituted “effective date” for the first occurrence of “date” in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1208 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1012.09. Other claims against dissolved limited cooperative association.

(a) A dissolved limited cooperative association may publish notice of its dissolution and request persons having claims against the association to present them in accordance with the notice.

(b) A notice under subsection (a) of this section shall:

(1) Be published at least once in a newspaper of general circulation in the District or, if the association does not have a principal office in the District, in the state and county in which the association's principal office is or was last located;

(2) Describe the information required to be contained in a claim and provide an address to which the claim is to be sent; and

(3) State that a claim against the association is barred unless an action to

enforce the claim is commenced not later than 3 years after publication of the notice.

(c) If a dissolved limited cooperative association publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants shall be barred unless the claimant commences an action to enforce the claim not later than 3 years after the first publication date of the notice:

- (1) A claimant that did not receive, notice in a record under § 29-1012.08;
- (2) A claimant whose claim is contingent or based on an event occurring after the effective date of dissolution; and
- (3) A claimant whose claim was timely sent to the company but not acted on.

(d) A claim not barred under this section or § 29-1012.08 may be enforced:

- (1) Against a dissolved limited cooperative association, to the extent of its undistributed assets; or
- (2) If, except as otherwise provided in § 29-1012.10, the assets of the association have been distributed after dissolution against a member or holder of financial rights to the extent of that person's proportionate share of the claim or the assets distributed to the person after dissolution, whichever is less; however, a person's total liability for all claims under this paragraph may not exceed the total amount of assets distributed to the person after dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(8)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1012.10.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (c) and (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1209 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1012.10. Court proceedings.

(a) Upon application by a dissolved limited cooperative association that has published a notice under § 29-1012.09, the Superior Court may determine the amount and form of security to be provided for payment of claims against the association that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution, but that, based on the facts known to the association, are reasonably anticipated to arise after the effective date of dissolution. The court need not require security for any claim that is barred under § 29-1012.08 or § 29-1012.09 or that is reasonably anticipated to be barred under that section.

(b) Not later than 10 days after filing an application under subsection (a) of this section, a dissolved limited cooperative association shall give notice of the proceeding to each known claimant holding a contingent claim as shown on the records of the dissolved association.

(c) The Superior Court may appoint a representative in a proceeding brought under this section to represent all claimants whose identities are

unknown. The dissolved limited cooperative association shall pay reasonable fees and expenses of the representative, including all reasonable attorneys' and expert witness fees.

(d) Provision by the dissolved limited cooperative association for security in the amount and the form ordered by the Superior Court shall satisfy the association's obligations with respect to claims that are contingent, have not been made known to the association, or are based on an event occurring after the effective date of dissolution. The association's obligations with respect to claims that are contingent may not be enforced against a member or holder of financial rights that received assets in liquidation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(8)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1010.07 and § 29-1012.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Court proceedings" for "Judicial proceeding" in the section heading; added the second sentence of (a); added "as shown on the records of the dissolved association" at the end of (b); and substituted a closing period and "The association's obligations with respect to claims that are contingent may not be enforced against a member or holder of financial rights that received assets in liquidation" for "and the claims

shall not be enforced against a member that received a distribution" in (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1210 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1012.11. Statement of dissolution.

(a) A limited cooperative association that has dissolved or is about to dissolve may deliver to the Mayor for filing a statement of dissolution that states:

- (1) The name of the association;
- (2) The date the association dissolved or will dissolve; and
- (3) Any other information the association considers relevant.

(b) A person shall have notice of a limited cooperative association's dissolution on the later of:

- (1) Ninety days after a statement of dissolution is filed; or
- (2) The effective date stated in the statement of dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1214 of the Uniform Limited Cooperative Association Act.

§ 29-1012.12. Statement of termination.

(a) A dissolved limited cooperative association that has completed winding up may deliver to the Mayor for filing a statement of termination that states:

- (1) The name of the association;
- (2) The date of filing of its initial articles of organization; and

(3) That the association is terminated.

(b) The filing of a statement of termination shall not itself terminate the limited cooperative association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1215 of the Uniform Limited Cooperative Association Act.

§ 29-1012.13. Rescinding dissolution.

(a) A limited cooperative association may rescind its dissolution, unless a statement of termination applicable to the association is effective, the Superior Court has entered an order under § 29-1012.03 dissolving the association, or the Mayor has dissolved the association under § 29-106.02.

(b) Rescinding dissolution under this section requires:

(1) The consent of each member;

(2) If a statement of dissolution applicable to the limited cooperative association has been filed by the Mayor but has not become effective, the delivery to the Mayor for filing of a statement of withdrawal applicable to the statement of dissolution; and

(3) If a statement of dissolution applicable to the limited cooperative association is effective, the delivery to the Mayor for filing of a statement of correction under § 29-102.05 stating that dissolution has been rescinded under this section.

(c) If a limited cooperative association rescinds its dissolution:

(1) The association resumes carrying on its activities and affairs as if dissolution had never occurred;

(2) Subject to paragraph (3) of this subsection, any liability incurred by the association after the dissolution and before the rescission is effective is determined as if dissolution had never occurred; and

(3) The rights of a third party arising out of conduct in reliance on the dissolution before the third party knew or had notice of the rescission may not be adversely affected.

(Mar. 5, 2013, D.C. Law 19-210, § 2(j)(8)(F), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-1001.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter XIII. Action by Member.

§ 29-1013.01. Derivative action.

A member may maintain a derivative action in the Superior Court to enforce a right of a limited cooperative association if:

(1) The member demands that the association bring an action to enforce the right; and

(2) Any of the following occur:

(A) The association does not, within 90 days after the member makes the demand, agree to bring the action;

(B) The association notifies the member that it has rejected the demand;

(C) Irreparable harm to the association would result by waiting 90 days after the member makes the demand;

(D) The association agrees to bring an action demanded and fails to bring the action within a reasonable time; or

(E) A demand under paragraph (1) of this subsection would be futile.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(9)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1013.03.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (2)(E) and made related changes.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1301 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1013.02. Proper plaintiff.

(a) A derivative action to enforce a right of a limited cooperative association shall be maintained only by a person that:

(1) Is a member or a dissociated member at the time the action is commenced and:

(A) Was a member when the conduct giving rise to the action occurred; or

(B) Whose status as a member devolved upon the person by operation of law or the organic rules from a person that was a member at the time of the conduct; and

(2) Adequately represents the interests of the association.

(b) If the sole plaintiff in a derivative action dies while the action is pending, the Superior Court may permit another member who meets the requirements of subsection (a) of this section to be substituted as plaintiff.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1302 of the Uniform Limited Cooperative Association Act.

§ 29-1013.03. Pleading.

In a derivative action to enforce a right of a limited cooperative association, the complaint shall state:

(1) The date and content of the plaintiff's demand under § 29-1013.01(1) and the association's response;

(2) If 90 days have not expired since the demand, how irreparable harm to the association would result by waiting for the expiration of 90 days;

(3) If the association agreed to bring an action demanded, that the action has not been brought within a reasonable time; and

(4) If the demand should be excused as futile, the reasons therefor.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(j)(9)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added (4) and made related changes.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1001.02.

Editor's notes. — Uniform Law: This section is based on § 1303 of the Uniform Limited Cooperative Association Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1013.04. Approval for discontinuance or settlement.

A derivative action to enforce a right of a limited cooperative association shall not be discontinued or settled without the Superior Court's approval.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1304 of the Uniform Limited Cooperative Association Act.

§ 29-1013.05. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action to enforce a right of a limited cooperative association, whether by judgment, compromise, or settlement, belong to the association and not to the plaintiff; and

(2) If the plaintiff in the derivative action receives any proceeds, the plaintiff shall immediately remit them to the association.

(b) If a derivative action to enforce a right of a limited cooperative association is successful in whole or in part, the Superior Court may award the plaintiff reasonable expenses, including reasonable attorneys' fees and costs, from the recovery of the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1305 of the Uniform Limited Cooperative Association Act.

§ 29-1013.06. Special litigation committee.

(a) If a limited cooperative association is named as or made a party in a derivative proceeding, the association may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the company. If the association appoints a special litigation committee, on motion by the committee made in the name of the association, except for good cause shown, the court shall stay

discovery for the time reasonably necessary to permit the committee to complete its investigation. This subsection does not prevent the court from enforcing a person's right to information under § 29-1005.05 or, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be members.

(c) A special litigation committee may be appointed:

(1) By a majority of the directors not named as defendants or plaintiffs in the proceeding; and

(2) If all directors are named as defendants or plaintiffs in the proceeding, by a majority of the directors named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the limited cooperative association that the proceeding:

(1) Continue under the control of the plaintiff;

(2) Continue under the control of the committee;

(3) Be settled on terms approved by the committee; or

(4) Be dismissed.

(e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to proceed under the direction of the plaintiff.

(Mar. 5, 2013, D.C. Law 19-210, § 2(j)(9)(C), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-1001.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter XIV. Disposition of Assets.

§ 29-1014.01. Disposition of assets not requiring member approval.

Unless the articles of organization otherwise provide, member approval under § 29-1014.02 shall not be required for a limited cooperative association to:

(1) Sell, lease, exchange, license, or otherwise dispose of all or any part of the assets of the association in the usual and regular course of business; or

(2) Mortgage, pledge, dedicate to the repayment of indebtedness, or encumber in any way all or any part of the assets of the association whether or not in the usual and regular course of business.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1014.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1501 of the Uniform Limited Cooperative Association Act.

§ 29-1014.02. Member approval of other disposition of assets.

A sale, lease, exchange, license, or other disposition of assets of a limited cooperative association, other than a disposition described in § 29-1014.01, shall require approval of the association's members under §§ 29-1014.03 and 29-1014.04 if the disposition leaves the association without significant continuing business activity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1014.01, § 29-1014.03, and § 29-1014.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1502 of the Uniform Limited Cooperative Association Act.

§ 29-1014.03. Notice and action on disposition of assets.

For a limited cooperative association to dispose of assets under § 29-1014.02:

(1) A majority of the board of directors, or a greater percentage if required by the organic rules, shall approve the proposed disposition; and

(2) The board of directors shall call a members meeting to consider the proposed disposition, hold the meeting not later than 90 days after approval of the proposed disposition by the board, and mail or otherwise transmit or deliver in a record to each member:

(A) The terms of the proposed disposition;

(B) A recommendation that the members approve the disposition or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis for that determination;

(C) A statement of any condition of the board's submission of the proposed disposition to the members; and

(D) Notice of the meeting at which the proposed disposition will be considered, which shall be given in the same manner as notice of a special meeting of members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09, § 29-1014.02, and § 29-1014.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1503 of the Uniform Limited Cooperative Association Act.

§ 29-1014.04. Disposition of assets.

(a) Subject to subsection (b) of this section, a disposition of assets under § 29-1014.02 shall be approved by:

(1) At least $\frac{2}{3}$ of the voting power of members present at a members meeting called under § 29-1014.03(2); and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) The organic rules may require that the percentage of votes under subsection (a)(1) of this section shall be:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(c) Subject to any contractual obligations, after a disposition of assets is approved and at any time before the consummation of the disposition, a limited cooperative association may approve an amendment to the contract for disposition or the resolution authorizing the disposition or approve abandonment of the disposition:

(1) As provided in the contract or the resolution; and

(2) Except as prohibited by the resolution, with the same affirmative vote of the board of directors and of the members as was required to approve the disposition.

(d) The voting requirements for districts, classes, or voting groups under § 29-1004.04 apply to approval of a disposition of assets under this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1014.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1504 of the Uniform Limited Cooperative Association Act.

Subchapter XV. Merger.

§ 29-1015.01. Definitions.

For the purposes of this subchapter, the term:

(1) “Constituent limited cooperative association” or “constituent association” means a limited cooperative association or foreign limited cooperative association that is a party to a merger.

(2) “Surviving limited cooperative association” or “surviving association”

means a limited cooperative association or foreign limited cooperative association into which one or more other domestic associations or foreign cooperatives associations are merged, whether the domestic or foreign association existed before the merger or is created by the merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1601 of the Uniform Limited Cooperative Association Act.

§ 29-1015.02. Merger.

(a) One or more constituent limited cooperative associations may merge with one or more other constituent associations pursuant to this subchapter and a plan of merger. If any of the constituent associations is a foreign cooperative association, the law of the jurisdiction in which it was formed shall authorize the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name and jurisdiction of organization of each constituent limited cooperative association;

(2) The name and jurisdiction of organization of the surviving limited cooperative association;

(3) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent association into any combination of money, interests in any entity, and other consideration;

(4) If the surviving association is to be created by the merger, the surviving association's organic rules; and

(5) If the surviving association is not to be created by the merger, any amendments to be made by the merger to the surviving association's organic rules.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1606 of the Uniform Limited Cooperative Association Act.

§ 29-1015.03. Notice and action on plan of merger.

(a) For a limited cooperative association to merge with another constituent limited cooperative association, a plan of merger shall be approved by a majority vote of the board of directors or a greater percentage if required by the association's organic rules.

(b) The board of directors shall call a members meeting to consider a plan of merger approved by the board, hold the meeting not later than 90 days after approval of the plan by the board, and mail or otherwise transmit or deliver in a record to each member:

(1) The plan of merger, or a summary of the plan and a statement of the manner in which a copy of the plan in a record may be reasonably obtained by a member;

(2) A recommendation that the members approve the plan of merger or, if the board determines that because of conflict of interest or other special circumstances, it should not make a favorable recommendation, the basis for that determination;

(3) A statement of any condition of the board's submission of the plan of merger to the members; and

(4) Notice of the meeting at which the plan of merger will be considered, which shall be given in the same manner as notice of a special meeting of members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09 and § 29-1015.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1607 of the Uniform Limited Cooperative Association Act.

§ 29-1015.04. Approval or abandonment of merger by members.

(a) Subject to subsections (b) and (c) of this section, a plan of merger shall be approved by:

(1) At least $\frac{2}{3}$ of the voting power of members present at a members meeting called under § 29-1015.03(b); and

(2) If the limited cooperative association has investor members, at least a majority of the votes cast by patron members, unless the organic rules require a greater percentage vote by patron members.

(b) The organic rules may provide that the percentage of votes under subsection (a)(1) of this section shall be:

(1) A different percentage that is not less than a majority of members voting at the meeting;

(2) Measured against the voting power of all members; or

(3) A combination of paragraphs (1) and (2) of this subsection.

(c) The vote required to approve a plan of merger shall not be less than the vote required for the members of the limited cooperative association to amend the articles of organization.

(d) Consent in a record to a plan of merger by a member shall be delivered to the limited cooperative association before delivery of articles of merger for filing pursuant to § 29-1015.05 if as a result of the merger the member will have an obligation or liability for an additional contribution.

(e) Subject to subsection (d) of this section and any contractual rights, after a merger is approved, and at any time before the effective date of the merger, a limited cooperative association that is a party to the merger may approve an amendment to the plan of merger or approve abandonment of the planned merger:

(1) As provided in the plan; and

(2) Except as prohibited by the plan, with the same affirmative vote of the board of directors and of the members as was required to approve the plan.

(f) The voting requirements for districts, classes, or voting groups under § 29-1004.04 shall apply to approval of a merger under this subchapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1001.09.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1608 of the Uniform Limited Cooperative Association Act.

§ 29-1015.05. Filings required for merger; effective date.

(a) After each constituent limited cooperative association has approved a merger, articles of merger shall be signed on behalf of each constituent association by an authorized representative.

(b) The articles of merger shall include:

(1) The name of each constituent limited cooperative association and the jurisdiction under the laws of which it is organized;

(2) The name of the surviving limited cooperative association, the jurisdiction under the laws of which it is organized, and, if the surviving association is created by the merger, a statement to that effect;

(3) The date the merger is to be effective;

(4) If the surviving association is to be created by the merger and will be a domestic limited cooperative association, the limited cooperative association's articles of organization;

(5) If the surviving association is not created by the merger and is a domestic limited cooperative association, any amendments provided for in the plan of merger to its articles of organization;

(6) A statement as to each constituent association that the merger was approved as required by its organic law;

(7) If the surviving association is a foreign cooperative not authorized to do business in the District, the street address and, if different, mailing address of an office which the Mayor may use for the purposes of § 29-104.12; and

(8) Any additional information required by the organic law of any constituent association.

(c) Each limited cooperative association that is a party to a merger shall deliver the articles of merger to the Mayor for filing.

(d) A merger shall be effective under this subchapter upon the later of:

(1) Compliance with subsection (c) of this section; or

(2) Subject to § 29-102.03, as specified in the articles of merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1015.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1609 of the Uniform Limited Cooperative Association Act.

§ 29-1015.06. Effect of merger.

(a) When a merger becomes effective:

(1) The surviving limited cooperative association shall continue or come into existence;

(2) Each constituent limited cooperative association that merges into the surviving association shall cease to exist as a separate entity;

(3) All property owned by each constituent association that ceases to exist shall vest in the surviving association;

(4) All debts, liabilities, and other obligations of each constituent association that ceases to exist shall continue as obligations of the surviving association;

(5) An action or proceeding pending by or against any constituent association that ceases to exist may be continued as if the merger had not occurred;

(6) Except as prohibited by law other than this chapter, all rights, privileges, immunities, powers, and purposes of each constituent association that ceases to exist shall vest in the surviving association;

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan shall take effect;

(8) Except as otherwise provided in the plan of merger, if a merging limited cooperative association ceases to exist, the merger shall not dissolve the association for purposes of subchapter XII of this chapter;

(9) If the surviving association is created by the merger, the articles of organization shall become effective; and

(10) If the surviving association is not created by the merger, any amendments made by the articles of merger for the articles of organization of the surviving association shall become effective.

(b) A surviving limited cooperative association that is organized under the laws of a jurisdiction other than the District consents to the jurisdiction of the Superior Court to enforce any obligation owed by a constituent limited cooperative association if, before the merger, the constituent association was subject to suit in the District on the obligation. A surviving association that is organized under the laws of a jurisdiction other than the District and not authorized to do business in the District may be served with process in the same manner and with the same consequences as in § 29-104.12.

(c) A merger in which a limited cooperative and another form of entity are parties shall be governed by Chapter 2 of this title.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1610 of the Uniform Limited Cooperative Association Act.

§ 29-1015.07. Consolidation.

(a) Constituent limited cooperative associations may agree to call a merger a consolidation under this subchapter.

(b) All provisions governing mergers or using the term merger in this

chapter shall apply equally to mergers that the constituent associations choose to call consolidations under subsection (a) of his [sic] section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1611 of the Uniform Limited Cooperative Association Act.

§ 29-1015.08. Subchapter not exclusive.

This subchapter shall not prohibit a limited cooperative association from being merged under law other than this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1612 of the Uniform Limited Cooperative Association Act.

CHAPTER 11. UNINCORPORATED NONPROFIT ASSOCIATIONS.

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29-1103. Relation to other law.	29-1119. Duties of manager.
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§ 29-1101. Short title.

This chapter may be cited as the “Uniform Unincorporated Nonprofit Association Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1102. Definitions.

For the purposes of this chapter, the term:

(1) “Established practices” means the practices used by an unincorporated nonprofit association without material change during the most recent 5 years of its existence or, if it has existed for less than 5 years, during its entire existence.

(2) “Governing principles” means the agreements, whether oral, in a record, or implied from its established practices, that govern the purpose or operation of an unincorporated nonprofit association and the rights and obligations of its members and managers. The term “governing principles” shall include any amendment or restatement of the agreements constituting the governing principles.

(3) “Manager” means a person that is responsible, alone or in concert with others, for the management of an unincorporated nonprofit association.

(4) “Member” means a person that, under the governing principles, may participate in the selection of persons authorized to manage the affairs of the unincorporated nonprofit association or in the development of the policies and activities of the association.

(5) “Unincorporated nonprofit association” means an unincorporated organization, consisting of 2 or more members joined under an agreement that is

oral, in a record, or implied from conduct, for one or more common, nonprofit purposes. The term “unincorporated nonprofit association” shall not include:

- (A) A trust;
- (B) A marriage, domestic partnership, common law domestic relationship, civil union, or other domestic living arrangement;
- (C) An organization formed under any other statute that governs the organization and operation of unincorporated associations;
- (D) A joint tenancy, tenancy in common, or tenancy by the entireties even if the co-owners share use of the property for a nonprofit purpose; or
- (E) A relationship under an agreement in a record that expressly provides that the relationship between the parties does not create an unincorporated nonprofit association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 2 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1103. Relation to other law.

A statute governing a specific type of unincorporated nonprofit association shall prevail over an inconsistent provision in this chapter, to the extent of the inconsistency.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 3 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1104. Governing law.

(a) Except as otherwise provided in subsection (b) of this section, the law of the District shall govern the operation in the District of all unincorporated nonprofit associations formed or operating in the District.

(b) Unless the governing principles specify a different jurisdiction, the law of the jurisdiction in which an unincorporated nonprofit association has its main place of activities shall govern the internal affairs of the association.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 4 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1105. Legal entity; duration; powers.

(a) An unincorporated nonprofit association shall be a legal entity distinct from its members and managers.

(b) An unincorporated nonprofit association shall have perpetual duration unless the governing principles specify otherwise.

(c) An unincorporated nonprofit association shall have the same powers as an individual to do all things necessary or convenient to carry on its purposes.

(d) An unincorporated nonprofit association may engage in profit-making activities, but profits from any activities shall be used or set aside for the association's nonprofit purposes.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 5 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1106. Ownership and transfer of property.

(a) An unincorporated nonprofit association may acquire, hold, encumber, or transfer in its name an interest in property.

(b) An unincorporated nonprofit association may be a beneficiary of a trust or contract, a legatee, or a devisee.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(k)(2), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “real or personal” preceding “property” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July

10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor's notes. — Uniform Law: This section is based on § 6 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1107. Statement of authority as to real property.

(a) For the purposes of this section, the term “statement of authority” means a statement authorizing a person to transfer an interest in real property held in the name of an unincorporated nonprofit association.

(b) An interest in real property held in the name of an unincorporated nonprofit association may be transferred by a person authorized to do so in a statement of authority filed by the association with the Mayor.

(c) A statement of authority shall set forth:

(1) The name of the unincorporated nonprofit association;

(2) The address in the District, including the street address, if any, of the association, or, if the association does not have an address in the District, its out-of-state address;

(3) That the association is an unincorporated nonprofit association; and

(4) The name, title, or position of a person authorized to transfer an interest in real property held in the name of the association.

(d) A statement of authority shall be executed in the same manner as a deed

by a person other than the person authorized in the statement to transfer the interest.

(e) A document effecting an amendment, revocation, or cancellation of a statement of authority, or stating that the statement is unauthorized or erroneous, shall meet the requirements for execution and filing of an original statement.

(f) Unless canceled earlier, a filed statement of authority and its most recent amendment shall expire 5 years after the date of the most recent filing.

(g) If the record title to real property is in the name of an unincorporated nonprofit association and the statement of authority is delivered to the Mayor for filing, the authority of the person named in the statement to transfer shall be conclusive in favor of a person that gives value without notice that the person lacks authority.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(k)(3), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “delivered to the Mayor for filing” for “filed with the Mayor” in (g).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1106.

Editor’s notes. — Uniform Law: This section is based on § 7 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1108. Liability.

(a) A debt, obligation, or other liability of an unincorporated nonprofit association, whether arising in contract, tort, or otherwise shall:

(1) Be solely the debt, obligation, or other liability of the association; and

(2) Not become the debt, obligation, or other liability of a member or manager solely by reason of the member acting as a member or the manager acting as a manager.

(b) A person’s status as a member or manager of shall not prevent or restrict law other than this chapter from imposing liability on the person or the association because of the person’s conduct.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 8 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1109. Assertion and defense of claims.

(a) An unincorporated nonprofit association shall have the capacity to sue and be sued in its own name.

(b) A member or a manager may assert a claim the member or manager has against an unincorporated nonprofit association. An association may assert a claim it has against a member or a manager.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 9 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1110. Effect of judgment or order.

A judgment or order against an unincorporated nonprofit association shall not by itself [be] a judgment or order against a member or manager.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 10 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1111. Member has no agency power.

A member of an unincorporated nonprofit association shall not be an agent of the association solely by reason of being a member.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 15 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1112. Approval by members.

(a) Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall have the approval of its members to:

- (1) Admit, suspend, dismiss, or expel a member;
- (2) Select and dismiss a manager;
- (3) Adopt, amend, or repeal the governing principles;
- (4) Sell, lease, exchange, or otherwise dispose of all, or substantially all, of the association's property, with or without the association's goodwill, outside the ordinary course of its activities;
- (5) Dissolve under § 29-1124 or merge under § 29-1126;
- (6) Undertake any other act outside the ordinary course of the association's activities; or
- (7) Determine the policy and purposes of the association.

(b) An unincorporated nonprofit association shall have the approval of the members to do any other act or exercise a right that the governing principles require to be approved by members.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1118.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 16 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1113. Procedural requirements for member meetings.

(a) Unless an unincorporated nonprofit association's governing principles provide otherwise:

(1) Approval of a matter by the members shall require an affirmative majority of the votes cast at a meeting of members; and

(2) Each member shall be entitled to one vote on each matter that is submitted for approval by members.

(b) The governing principles may provide for the:

(1) Calling, location, and timing of member meetings;

(2) Notice and quorum requirements for member meetings;

(3) Conduct of member meetings;

(4) Taking of action by the members by consent without a meeting or casting ballots; and

(5) Participation by members in a member meeting by telephone or other means of electronic communication.

(c) If the governing principles do not provide for a matter described in subsection (b) of this section, customary usages and principles of parliamentary law and procedure apply.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(k)(4), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Procedural requirements for member meetings" for "Member Meeting, voting and notice requirements" in the section heading; substituted "the members" for "members" in (a)(1); rewrote (b); and added (c).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1106.

Editor's notes. — Uniform Law: This section is based on § 17 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1114. Duties of member.

(a) A member shall not have a fiduciary duty to an unincorporated nonprofit association or to another member solely by being a member.

(b) A member shall discharge the duties to the unincorporated nonprofit association and the other members and exercise any rights under this chapter consistent with the governing principles and the obligation of good faith and fair dealing.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1123.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 18 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1115. Admission, suspension, dismissal, or expulsion of member.

(a) A person shall become a member and may be suspended, dismissed, or expelled in accordance with the association's governing principles. If there are no applicable governing principles, a person shall become a member or be suspended, dismissed, or expelled from an association only by a vote of its members. A person shall not be admitted as a member without the person's consent.

(b) Unless the governing principles provide otherwise, the suspension, dismissal, or expulsion of a member shall not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred, or commitment made, by the member before the suspension, dismissal, or expulsion.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 19 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1116. Member's resignation.

(a) A member may resign as a member in accordance with the governing principles. In the absence of applicable governing principles, a member may resign at any time.

(b) Unless the governing principles provide otherwise, resignation of a member shall not relieve the member from any unpaid capital contribution, dues, assessments, fees, or other obligation incurred or commitment made by the member before resignation.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 20 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1117. Membership interest not transferable.

Except as otherwise provided in the governing principles, a member's interest or any right under the governing principles shall not be transferable.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 21 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1118. Selection of managers; management rights of managers.

Except as otherwise provided in this chapter or the governing principles:

- (1) Only the members shall select a manager or managers;
- (2) A manager may be a member or a nonmember;
- (3) If a manager is not selected, all members shall be managers;
- (4) Each manager has equal rights in the management and conduct of the association's activities;
- (5) All matters relating to the activities shall be decided by its managers, except for matters reserved for approval by members in § 29-1112; and
- (6) A difference among managers shall be decided by a majority of the managers.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 22 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1119. Duties of manager.

(a) A manager shall owe to the unincorporated nonprofit association and to its members the fiduciary duties of loyalty and care.

(b) A manager shall manage the unincorporated nonprofit association in good faith, in a manner the manager reasonably believes to be in the best interests of the association, and with such care, including reasonable inquiry, as a prudent person would reasonably exercise in a similar position and under similar circumstances. A manager may rely in good faith upon any opinion, report, statement, or other information provided by another person that the manager reasonably believes is a competent and reliable source for the information.

(c) After full disclosure of all material facts, a specific act or transaction that would otherwise violate the duty of loyalty by a manager may be authorized or ratified by a majority of the members that are not interested directly or indirectly in the act or transaction.

(d) A manager that makes a business judgment in good faith satisfies the duties specified in subsection (a) of this section if the manager:

- (1) Is not interested, directly or indirectly, in the subject of the business judgment and is otherwise able to exercise independent judgment;
- (2) Is informed with respect to the subject of the business judgment to the extent the manager reasonably believes to be appropriate under the circumstances; and

(3) Believes that the business judgment is in the best interests of the unincorporated nonprofit association and in accordance with its purposes.

(e) The governing principles in a record may limit or eliminate the liability of a manager to the unincorporated nonprofit association or its members for damages for any action taken, or for failure to take any action, as a manager, except liability for:

- (1) The amount of financial benefit improperly received by a manager;
- (2) An intentional infliction of harm on the association or one or more of its members;
- (3) An intentional violation of criminal law;

- (4) Breach of the duty of loyalty; or
- (5) Improper distributions.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1123.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 23 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1120. Procedural requirements for manager meetings.

- (1) Calling, location, and timing of manager meetings;
- (2) Notice and quorum requirements for manager meetings;
- (3) Conduct of manager meetings;
- (4) Taking of action by the managers by consent without a meeting; and
- (5) Participation by managers in a manager meeting by telephone or other means of electronic communication.

(b) If the governing principles do not provide for a matter described in subsection (a) of this section, customary usages and principles of parliamentary law and procedure apply.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(k)(5), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1106.

Editor's notes. — Uniform Law: This section is based on § 24 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1121. Right of members and managers to information.

(a) On reasonable notice, a member or manager of an unincorporated nonprofit association may inspect and copy during the unincorporated nonprofit association's regular operating hours, at a reasonable location specified by the association, any record maintained by the association regarding its activities, financial condition, and other circumstances, to the extent the information is material to the member's or manager's rights and duties under the governing principles.

(b) An unincorporated nonprofit association may impose reasonable restrictions on access to, and use of, information to be furnished under this section, including designating the information confidential and imposing the obligations of nondisclosure and safeguarding on the recipient.

(c) An unincorporated nonprofit association may charge a person that

makes a demand under this section reasonable copying costs, limited to the costs of labor and materials.

(d) A former member or manager shall be entitled to information to which the member or manager was entitled while a member or manager if the information pertains to the period during which the person was a member or manager, the former member or manager seeks the information in good faith, and the former member or manager satisfies subsections (a) through (c) of this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 25 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1122. Distributions prohibited; compensation and other permitted payments.

(a) Except as otherwise provided in subsection (b) of this section, an unincorporated nonprofit association shall not pay dividends or make distributions to a member or manager.

(b) An unincorporated nonprofit association may:

(1) Pay reasonable compensation or reimburse reasonable expenses to a member or manager for services rendered;

(2) Confer benefits on a member or manager in conformity with its nonprofit purposes;

(3) Repurchase a membership and repay a capital contributions made by a member to the extent authorized by its governing principles; or

(4) Make distributions of property to members upon winding up and termination to the extent permitted by § 29-1125.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 26 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1123. Reimbursement; indemnification; advancement of expenses.

(a) Except as otherwise provided in the governing principles, an unincorporated nonprofit association shall reimburse a member or manager for authorized expenses reasonably incurred in the course of the member's or manager's activities on behalf of the association;

(b) An unincorporated nonprofit association may indemnify a member or manager for any debt, obligation, or other liability incurred in the course of the member's or manager's activities on behalf of the association if the person seeking indemnification has complied with § 29-1114 or § 29-1119. Governing principles in a record may broaden or limit indemnification.

(c) If a person is made, or threatened to be made, a party in an action based on that person's activities on behalf of an unincorporated nonprofit association

and the person makes a request in a record to the association, a majority of the disinterested managers may approve in a record advance payment, or reimbursement, by the association, of all or a part of the reasonable expenses, including attorneys' fees and costs, incurred by the person before the final disposition of the proceeding. To be entitled to an advance payment or reimbursement, the person shall state in a record that the person has a good faith belief that the criteria for indemnification in subsection (b) of this section have been satisfied and that the person will repay the amounts advanced or reimbursed if the criteria for payment have not been satisfied. The governing principles in a record may broaden or limit the advance payments or reimbursements.

(d) An unincorporated nonprofit association may purchase insurance on behalf of a member or manager for liability asserted against or incurred by the member or manager in the capacity of a member or manager, whether or not the association has authority under this chapter to reimburse, indemnify, or advance expenses to the member or manager against liability.

(e) The rights of reimbursement, indemnification, and advancement of expenses under this section shall apply to a former member or manager for an activity undertaken on behalf of the unincorporated nonprofit association while a member or manager.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 27 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1124. Dissolution.

(a) An unincorporated nonprofit association may be dissolved as follows:

(1) If the governing principles provide a time or method for dissolution, at that time or by that method;

(2) If the governing principles do not provide a time or method for dissolution, upon approval by the members;

(3) If no member can be located and the association's operations have been discontinued for at least 3 years, by the managers or, if the association has no current manager, by its last manager;

(4) By court order; or

(5) Under law other than this chapter.

(b) After dissolution, an unincorporated nonprofit association continues in existence until its activities have been wound up and it is terminated pursuant to § 29-1125.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1112.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 28 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1125. Winding up and termination.

Winding up and termination of an unincorporated nonprofit association shall proceed in accordance with the following rules:

(1) All known debts and liabilities shall be paid or adequately provided for.

(2) Any property subject to a condition requiring return to the person designated by the donor shall be transferred to that person.

(3) Any property subject to a trust shall be distributed in accordance with the trust agreement.

(4) Any remaining property shall be distributed as follows:

(A) As required by law other than this chapter that requires assets of an association to be distributed to another person with similar nonprofit purposes;

(B) In accordance with the association's governing principles or, in the absence of applicable governing principles, to the members of the association per capita or as the members direct; or

(C) If subparagraph (A) or (B) of this paragraph does not apply, in accordance with the law of unclaimed property in the District.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1122 and § 29-1124.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 29 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

§ 29-1126. Mergers.

(a) For the purposes of this section, the term:

(1) "Constituent association organization" means an unincorporated nonprofit association that is merged with one or more other unincorporated nonprofit associations, including the surviving association.

(2) "Disappearing association" means a constituent association that is not the surviving association.

(3) "Surviving association" means an unincorporated nonprofit association into which one or more other associations are merged.

(b) A merger involving unincorporated nonprofit associations shall be subject to the following requirements:

(1) Each of the constituent merging associations shall comply with its governing law.

(2) Each party to the merger shall approve a plan of merger. The plan, which must be in a record, shall include the following provisions:

(A) The name and form of each association that is a party to the merger;

(B) The name and form of the surviving association and, if the surviving association is to be created by the merger, a statement to that effect;

(C) The terms and conditions of the merger, including the manner and basis for converting the interests in each constituent association into any

combination of money, interests in the surviving association, and other consideration;

(D) If the surviving association is to be created by the merger, the surviving association's organizational documents that are proposed to be in a record; and

(E) If the surviving association is not to be created by the merger, any amendments to be made by the merger to the surviving association's organizational documents that are, or are proposed to be, in a record.

(3) The plan of merger shall be approved by the members of each unincorporated nonprofit association that is a constituent association in the merger. If a member of an association that is a party to a merger will have personal liability with respect to an obligation of a constituent or a surviving association, the consent in a record of that member to the plan of merger shall also be obtained.

(4) Subject to the contractual rights of third parties, after a plan of merger is approved and at any time before the merger is effective, a constituent association may amend the plan or abandon the merger as provided in the plan, or except as otherwise prohibited in the plan, with the same consent as was required to approve the plan.

(5) Following approval of the plan, a merger under this section shall be effective, if a constituent association is required to give notice to or obtain the approval of a governmental agency or officer to be a party to a merger, when the notice has been given and the approval has been obtained.

(d) When a merger becomes effective, the following occur

(1) The surviving association shall continue or come into existence.

(2) Each constituent association that merges into the surviving association shall cease to exist as a separate entity.

(3) All property owned by each constituent association that ceases to exist shall vest in the surviving association.

(4) All debts, obligations, or other liabilities of each constituent association that ceases to exist shall continue as debts, obligations, or other liabilities of the surviving association.

(5) An action or proceeding pending by or against any constituent association that ceases to exist may be continued as if the merger had not occurred.

(6) Except as prohibited by other law, all of the rights, privileges, immunities, powers, and purposes of each constituent association that ceases to exist shall vest in the surviving association.

(7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger shall take effect.

(8) The merger shall not affect the personal liability, if any, of a member or manager of a constituent association for a debt, obligation, or other liability of the association incurred before the merger is effective.

(9) A surviving association that is a foreign unincorporated nonprofit association consents to the jurisdiction of the Superior Court to enforce any debt, obligation, or other liability owed by a constituent association if, before the merger, the constituent association was subject to suit in the District on the debt, obligation, or other liability. A surviving association that is a foreign

unincorporated nonprofit association and not authorized to do business in the District may be served with process as provided in § 29-104.12 for the purposes of enforcing a debt, obligation, or other liability under this subsection.

(e) Property held for a charitable purpose under the law of the District by a domestic or foreign unincorporated nonprofit association immediately before a merger under this section becomes effective shall not, as a result of the merger, be diverted from the objects for which it was donated, granted, or devised, unless, to the extent required by or pursuant to the law of the District concerning cy pres or other law dealing with nondiversion of charitable assets, the organization obtains an appropriate order of the Superior Court specifying the disposition of the property.

(f) A bequest, devise, gift, grant, or promise contained in a will or other instrument of donation, subscription, or conveyance that is made to a disappearing association and that takes effect or remains payable after the merger shall inure to the benefit of the surviving association. A trust obligation that would govern property if transferred to the disappearing association shall apply to property that is instead transferred to the surviving association under this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(k)(6), 59 DCR 13171.)

Section references. — This section is referenced in § 29-202.01 and § 29-1112.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “unincorporated nonprofit associations” for “an unincorporated nonprofit association” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1106.

Editor’s notes. — Uniform Law: This section is based on § 30 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1127. Transition concerning real and personal property.

(a) If, before the applicability date of this chapter, an interest in property was by terms of a transfer purportedly transferred to an unincorporated nonprofit association but under the law of the District the interest did not vest in the association, or in one or more persons on behalf of the association under subsection (b) of this section, on the effective date of this chapter, the interest shall vest in the association, unless the parties to the transfer have treated the transfer as ineffective.

(b) If, before the applicability date of this chapter, an interest in property was by terms of a transfer purportedly transferred to an unincorporated nonprofit association but the interest was vested in one or more persons to hold the estate or interest for members of the association, on or after the effective date of this chapter, the persons, or their successors in interest, may transfer the interest to the association in its name or the association may require that the interest be transferred to it in its name.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 31 of the Uniform Unincorporated Nonprofit Association Act (2008 Act).

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Subchapter I. General Provisions.

§ 29-1201.01. Short title.

This chapter may be cited as the “Uniform Statutory Trust Entity Act of 2010”.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 101 of the Uniform Statutory Trust Entity Act.

§ 29-1201.02. Definitions.

For the purposes of the chapter, the term:

(1) “Beneficial owner” means the owner of a beneficial interest in a statutory trust or foreign statutory trust.

(2) “Certificate of trust” means the record required by § 29-1202.01. The term “certificate of trust” includes the certificate amended or restated.

(3) “Common-law trust” means a fiduciary relationship with respect to property arising from a manifestation of intent to create that relationship and subjecting the person that holds title to the property to duties to deal with the property for the benefit of charity or for one or more persons, at least one of which is not the sole trustee, whether the purpose of the trust is donative or commercial. The term “common-law trust” shall include the type of trust known at common law as a “business trust”, “Massachusetts trust”, or “Massachusetts business trust”.

(4) “Contribution”, except in the phrase “right of contribution”, means property or a benefit described in § 29-1206.03 that a person provides to a statutory trust in order to become a beneficial owner or provides in the person’s capacity as a beneficial owner.

(5) “Distribution” means a transfer of money or other property from a statutory trust as a result of a beneficial interest. The term includes transfers occurring when a statutory trust’s redeems or otherwise purchases a beneficial interest.

(6) “Foreign statutory trust” means a trust that is formed under the laws of a jurisdiction other than the District which would be a statutory trust if formed under the laws of the District.

(7) “Governing instrument” means the trust instrument and certificate of trust.

(8) “Person” means an individual, corporation, statutory trust, estate, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity. The term “person” shall not include a common-law trust.

(9) “Registered foreign statutory trust” means a foreign statutory trust that is registered to do business in the District pursuant to a registration statement delivered to the Mayor for filing.

(10) “Related party”, with respect to a person that is a trustee, officer, employee, manager, or beneficial owner, means:

- (A) The spouse of the party;
- (B) A child, parent, sibling, grandchild, or grandparent of the party, or the spouse of one of them;
- (C) An individual having the same residence as the party;
- (D) A trust or estate of which a related party described in subparagraph (A), (B), or (C) of this paragraph is a substantial beneficiary;
- (E) A trust, estate, legally incapacitated individual, conservatee, or minor for which the party is a fiduciary; or
- (F) A person that directly or indirectly controls, is controlled by, or is under common control with, the party.

(11) “Series trust” means a statutory trust that has one or more series created under § 29-1204.01.

(12) “Statutory trust” means an entity formed under this chapter or an entity that becomes subject to this chapter under Chapter 2 of this title.

(13) “Trust” includes a common-law trust, statutory trust, and foreign statutory trust.

(14) “Trust instrument” means a record other than the certificate of trust which provides for the governance of the activities and affairs of a statutory trust and the conduct of its business. The term “trust instrument” includes a trust agreement, a declaration of trust, and bylaws.

(15) “Trustee” means a person designated, appointed, or elected as a trustee of a statutory trust or foreign statutory trust in accordance with the governing instrument or applicable law.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(2)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — Law 19-210, the “District of Columbia Official Code Title 29 Technical and Harmonizing Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-532. The Bill was adopted on first and second readings on July

10, 2012, and Oct. 2, 2012, respectively. Signed by the Mayor on Oct. 31, 2012, it was assigned Act No. 19-512 and transmitted to Congress for its review. D.C. Law 19-210 became effective on Mar. 5, 2013.

Editor’s notes. — Uniform Law: This section is based on § 102 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1201.03. Governing instrument: scope, limitations, and amendment.

(a) Except as otherwise provided in § 29-1201.04, the governing instrument shall govern the:

- (1) Management, affairs, and conduct of the business of a statutory trust; and
- (2) Rights, interests, duties, obligations, and powers of, and the relations

among, the trustees, a person designated under subsection (e)(8) or (9) of this section, the beneficial owners, and the statutory trust.

(b) To the extent the governing instrument does not otherwise provide for a matter described in subsection (a) of this section, this chapter shall govern the matter.

(c) The governing instrument may include one or more instruments, agreements, declarations, bylaws, or other records and refer to or incorporate any record.

(d) The governing instrument may be amended with the approval of all the beneficial owners.

(e) Subject to § 29-1201.04, without limiting the terms that may be included in a governing instrument, the governing instrument may:

(1) Provide the means by which beneficial ownership is determined and evidenced;

(2) Limit a beneficial owner's right to transfer its beneficial interest;

(3) Provide for one or more series under subchapter IV of this chapter;

(4) To the extent that voting rights are granted under the governing instrument, include terms relating to:

(A) Notice of the date, time, place, or purpose of any meeting at which any matter is to be voted on;

(B) Waiver of notice;

(C) Action by consent without a meeting;

(D) Establishment of record dates;

(E) Quorum requirements;

(F) Voting:

(i) In person;

(ii) By proxy;

(iii) By any form of communication that creates a record, telephone, or video conference; or

(iv) In any other manner; or

(G) Any other matter with respect to the exercise of the right to vote;

(5) Subject to § 29-1204.03, provide for the creation of one or more classes of trustees, beneficial owners, or beneficial interests having separate rights, powers, or duties;

(6) Subject to § 29-1204.03, provide for any action to be taken without the vote or approval of any particular trustee or beneficial owner, or classes of trustees, beneficial owners, or beneficial interests, including:

(A) Amendment of the governing instrument;

(B) Merger, conversion, interest exchange, or domestication;

(C) Appointment of trustees;

(D) Sale, lease, exchange, transfer, pledge, or other disposition of all or any part of the property of the statutory trust or the property of any series thereof; and

(E) Dissolution of the statutory trust;

(7) Provide for the creation of a statutory trust, including the creation of a statutory trust to which all or any part of the property, liabilities, profits, or losses of a statutory trust may be transferred or exchanged, and for the

conversion of beneficial interests in a statutory trust, or series thereof, into beneficial interests in the new statutory trust or series thereof;

(8) Provide for the appointment, election, or engagement of agents or independent contractors of the statutory trust or delegates of the trustees, or agents, officers, employees, managers, committees, or other persons that may manage the activities and affairs of the statutory trust, designate their titles, and specify their rights, powers, and duties;

(9) Provide rights to any person, including a person that is not a party to the governing instrument;

(10) Subject to paragraph (11) of this subsection, specify the manner in which the governing instrument may be amended, including, unless waived by all persons for whose benefit the condition or requirement was intended, a:

(A) Condition that a person that is not a party to the instrument shall approve the amendment for it to be effective; and

(B) Requirement that the governing instrument may be amended only as provided in the governing instrument or as otherwise permitted by law.

(11) Provide that a person may comply with paragraph (10) of this subsection by a representative authorized by the person orally, in a record, or by conduct;

(12) Provide that a person becomes a beneficial owner, acquires a beneficial interest, and is bound by the governing instrument if the person complies with the conditions for becoming a beneficial owner set forth in the governing instrument, such as payment to the statutory trust or to a previous beneficial owner;

(13) Provide that the statutory trust or the trustees, acting for the statutory trust, hold beneficial ownership of any income earned on securities held by the statutory trust that are issued by any business entity formed, organized, or existing under the laws of any jurisdiction;

(14) Provide for the establishment of record dates;

(15) Grant to, or withhold from, a trustee or beneficial owner, or class of trustees or beneficial owners, the right to vote, separately or with any or all other trustees or beneficial owners, or class of trustees or beneficial owners, on any matter; and

(16) Limit the duration of the statutory trust.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(2)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04, § 29-1203.01, § 29-1203.04, § 29-1203.06, § 29-1205.06, § 29-1205.07, and § 29-1205.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “subsection (b) of this section or” following “provided in” in (a); substituted “a person designated under subsection (e)(8) or (9) of this section, the beneficial owners, and the statutory trust” for “the beneficial owners, the statutory trust, and other persons” in (a)(2); substituted “Subject to § 29-1204.03, provide” for

“Provide” in (e)(5) and (e)(6); substituted “interest exchange, or domestication” for “or reorganization” in (e)(6)(B); and substituted “activities” for “business” in (e)(8).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 103 of the Uniform Statutory Trust Entity Act.

Section 2(l)(2)(B)(ii)(II)(bb) of D.C. Law 19-

210 purported to amend subsection (e)(6)(A) of this section, but by its context clearly intended to amend (e)(6)(B). The amendment has been implemented in § 29-1201.03(e)(6)(B).

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1201.04. Mandatory rules.

The governing instrument shall not:

(1) Vary any requirement, procedure, or other provision of this title pertaining to:

(A) Registered agents; or

(B) The Mayor, including provisions pertaining to records authorized or required to be delivered to the Mayor for filing under this title;

(2) Vary the governing law under § 29-1203.01;

(3) Negate the exclusion of a predominantly donative purpose under § 29-1203.03;

(4) Vary the provisions pertaining to series trusts in §§ 29-1204.01, 29-1204.02(b) or (c), 29-1204.03, and 29-1204.04(c);

(5) Vary the standards of conduct for trustees under § 29-1205.05, but the governing instrument may prescribe the standards by which good faith, best interests of the statutory trust, and care that a person in a similar position would reasonably believe appropriate under similar circumstances are determined, if the standards are not manifestly unreasonable;

(6) Vary the liability under § 29-1205.06 of a trustee or other person; but the governing instrument may prescribe the standards for assessing whether the reliance was reasonable, if the standards are not manifestly unreasonable;

(7) Restrict the right of a trustee to information under § 29-1205.08, but the governing instrument may prescribe the standards for assessing whether information is reasonably related to the trustee's discharge of the trustee's duties as trustee, if the standards are not manifestly unreasonable;

(8) Vary the prohibition under § 29-1205.09 of indemnification, advancement of expenses, or exoneration for conduct involving bad faith, willful misconduct, or reckless indifference;

(9) Vary the obligation of a trustee under § 29-1205.10(c) not to follow a direction that is manifestly contrary to the terms of the governing instrument or would constitute a serious breach of fiduciary duty by the trustee;

(10) Vary the provisions pertaining to the transfer of a beneficial interest and the power of the Superior Court under § 29-1206.06(b) through (d);

(11) Restrict the right of a beneficial owner to information under § 29-1206.08, but the governing instrument may prescribe the standards for assessing whether information is reasonably related to the beneficial owner's interest, if the standards are not manifestly unreasonable;

(12) Restrict the right of a beneficial owner to bring an action under § 29-1206.09 or 29-1206.10, but the governing instrument may subject the right to additional standards and restrictions, including a requirement that beneficial owners owning a specified amount or type of beneficial interest, including in a series trust an interest in the series, join in bringing the action, if the additional standards and restrictions are not manifestly unreasonable;

- (13) Vary the right of a beneficial owner under Chapter 2 of this title to approve a merger, interest exchange, conversion, or domestication;
- (14) Vary the provisions of Subchapter [subchapter] VIII of this chapter;
- (15) Vary the provisions relating to foreign statutory trusts in subchapter V of Chapter 1 of this title;
- (16) Vary the miscellaneous provisions in subchapter VII of Chapter 1 of this title;
- (17) Vary the rules under § 29-1206.14, if a statutory trust appoints a special litigation committee;
- (18) Vary the provision pertaining to the duration of a statutory trust under § 29-1203.06(a);
- (19) Vary the capacity of a statutory trust under § 29-1203.08 to sue and be sued in its own name; or
- (20) Restrict the rights under this chapter of a person other than a trustee, person designated under § 29-1201.03(e)(8) and (9), or beneficial owner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(2)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.03, § 29-1202.01, and § 29-1205.09.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 104 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1201.05. Applicability of trust law.

The law of the District pertaining to common-law trusts shall supplement this chapter. However, a governing instrument may supersede or modify application to the statutory trust of any law of the District pertaining to common-law trusts.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 105 of the Uniform Statutory Trust Entity Act.

§ 29-1201.06. Rule of construction.

(a) This chapter shall be liberally construed to give maximum effect to the principle of freedom of contract and to the enforceability of governing instruments.

(b) The presumption that a civil statute in derogation of the common law is construed strictly shall not apply to this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 106 of the Uniform Statutory Trust Entity Act.

§ 29-1201.07. Constructive notice.

A person that is not a beneficial owner is deemed to have notice of a statutory trust's merger, interest exchange, conversion, or domestication 90 days after articles of merger, interest exchange, conversion, or domestication under subchapter VII of this chapter or Chapter 2 of this title become effective.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(2)(D), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-1201.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter II. Formation; Certificate of Trust and Other Filings; Process.

§ 29-1202.01. Certificate of trust.

(a) To form a statutory trust, a person shall deliver a certificate of trust to the Mayor for filing.

(b) A certificate of trust shall state:

(1) The name of the statutory trust, which must comply with §§ 29-103.01 and 29-103.02(i);

(2) The street and mailing address of the principal office of the trust;

(3) The name and street and mailing address of the registered agent of the trust; and

(4) If the trust may have one or more series, a statement to that effect.

(c) A certificate of trust may contain any term in addition to those required by subsection (b) of this section but may not vary or otherwise affect the provisions specified in § 29-1201.04 in a manner that is inconsistent with that section.

(d) A statutory trust is formed when the certificate of trust becomes effective.

(e) A filed certificate of trust, a filed statement of cancellation or change, or articles filed under subchapter VII of this chapter or Chapter 2 of this title prevail over inconsistent terms of a trust instrument.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(3)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-101.06, § 29-1201.02, § 29-1204.01, and § 29-1209.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 deleted “initial” preceding “registered” in (b)(3); added “but may not vary or otherwise affect the provisions specified in § 29-1201.04 in a manner that is

inconsistent with that section” at the end of (c); rewrote (d); and substituted “articles filed under subchapter VII of this chapter or Chapter 2 of this title” for “filed articles of conversion or merger shall” in (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 201 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1202.02. Amendment or restatement of certificate of trust; statement of correction.

- (a) A certificate of trust may be amended or restated at any time.
- (b) To amend its certificate of trust, a statutory trust shall deliver to the Mayor for filing an amendment stating the:
 - (1) Name of the trust;
 - (2) Date of filing of its initial certificate; and
 - (3) Changes to the certificate as most recently amended or restated.
- (c) To restate its certificate of trust, a statutory trust must deliver to the Mayor for filing a restatement designated as such in its heading.
- (d) A trustee that knows or has reason to know that information in a filed certificate of trust was inaccurate when the certificate was filed or has become inaccurate due to changed circumstances shall promptly:
 - (1) Cause the certificate to be amended; or
 - (2) If appropriate, deliver to the Mayor for filing a statement of change under § 29-104.07 or a statement of correction under § 29-102.05.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(3)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1202.05 and § 29-1209.01.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 202 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1202.03. Signing of records.

- (a) A record delivered by the statutory trust to the Mayor for filing pursuant to this chapter shall be signed by at least one of the trustees.
- (b) Any person may sign by an attorney in fact any record filed pursuant to this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 203 of the Uniform Statutory Trust Entity Act.

§ 29-1202.04. Signing and filing pursuant to judicial order.

- (a) If a person required by this title to sign a record or deliver a record to the

Mayor for filing under this title does not do so, any other person that is aggrieved may petition the Superior Court to order:

- (1) The person to sign the record;
- (2) The person to deliver the record to the Mayor for filing; or
- (3) The Mayor to file the record unsigned.

(b) If the petitioner under subsection (a) of this section is not the statutory trust to which the record pertains, the petitioner shall make the trust a party to the action.

(c) A record filed pursuant to subsection (a)(3) of this section is effective without being signed.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(3)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1202.05.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1202.05. Liability for inaccurate information in filed record.

(a) If a record delivered to the Mayor for filing under this title and filed by the Mayor contains inaccurate information, a person that suffers loss by reliance on the information may recover damages for the loss from:

(1) A person that signed the record, or caused another to sign it on the person's behalf, and knew the information to be inaccurate at the time the record was signed; and

(2) Subject to subsection (b) of this section, a trustee of a statutory trust, if:

(A) The record was delivered for filing on behalf of the trust; and

(B) The trustee had notice of the inaccuracy for a reasonably sufficient time before the information was relied upon so that, before the reliance, the trustee reasonably could have:

(i) Effected an amendment under § 29-1202.02;

(ii) Filed a petition under § 29-1202.04; or

(iii) Delivered to the Mayor for filing a statement of change under § 29-104.07 or a statement of correction under § 29-102.05.

(b) An individual who signs a record authorized or required to be filed under this title affirms under penalty of making false statements that the information stated in the record is accurate.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(3)(C), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-1201.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter III. Governing Law; Authorization; Duration; Powers.

§ 29-1203.01. Governing law.

The law of the District shall govern the:

- (1) Internal affairs of a statutory trust;
- (2) Liability of a beneficial owner as beneficial owner, a trustee as trustee, and a person appointed, elected, or engaged under § 29-1201.03(e)(8) or (9) for a debt, obligation, or other liability of a statutory trust or a series thereof; and
- (3) Enforceability of a debt, obligation, or other liability of the statutory trust or a series thereof against the property of the trust or any series thereof.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(4)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “a trustee as trustee, and a person appointed, elected, or engaged under § 29-1201.03(e)(8) or (9)” for “and a trustee as trustee” in (2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 301 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1203.02. Statutory trust as entity.

A statutory trust is an entity separate from its trustees and beneficial owners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(4)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “is” for “shall be.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 302 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1203.03. Permissible purposes.

(a) Except as otherwise provided in subsection (b) of this section, a statutory trust may be formed for and may have any lawful purpose, regardless of whether for profit.

(b) A statutory trust may not have a predominantly donative purpose.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(4)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “regardless of whether for profit” at the end of (a); and substituted “may” for “shall” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 303 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1203.04. Limitation on liability of trustees and beneficial owners.

(a) A debt, obligation, or other liability of a statutory trust or series thereof shall be solely a debt, obligation, or other liability of the trust or series thereof. A beneficial owner, trustee, or person designated pursuant to § 29-1201.03(e)(8) or (9) is not personally liable, directly or indirectly, by way of contribution or otherwise, for a debt, obligation, or other liability of the trust or series thereof solely by reason of being or acting as a trustee, beneficial owner, or person designated pursuant to § 29-1201.03(e)(8) or (9). This subsection applies regardless of the dissolution of the statutory trust.

(b) Except as otherwise provided in subchapter IV of this chapter, property of a statutory trust held in the name of the trust or by the trustee in the trustee’s capacity as trustee shall be subject to attachment and execution to satisfy a debt, obligation, or other liability of the trust.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(4)(D), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Limitation on liability of trustees and beneficial owners” for “Statutory trust solely liable for debt, obligation, or other liability of statutory trust” in the section heading; rewrote (a); and substituted “shall be” for “shall be is” in (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 304 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1203.05. No creditor rights in trust property.

A creditor of a beneficial owner or trustee shall not obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the property of a statutory trust or any series thereof.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 305 of the Uniform Statutory Trust Entity Act.

§ 29-1203.06. Duration.

(a) Except as otherwise provided in its certificate of trust, a statutory trust:

(1) Has perpetual duration; and

(2) May not be terminated or revoked except in accordance with this chapter or the terms of the trust's certificate of trust.

(b) A series of a statutory trust may not be terminated or revoked except in accordance with this chapter or the terms of the governing instrument.

(c) The death, incapacity, dissolution, termination, or bankruptcy of a beneficial owner, trustee, or person designated under § 29-1201.03(e)(8) or (9) does not result in the termination or dissolution of a statutory trust or any series thereof.

(d) A statutory trust or any series thereof shall not terminate because the same person is the sole trustee and sole beneficial owner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(4)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote (a); substituted "series of a statutory trust may" for "statutory trust, or any series thereof, shall" in (b); and substituted "trustee, or person designated under § 29-1201.03(e)(8) or (9) does" for "or trustee shall" in (c).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 306 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1203.07. Power to hold property; title to trust property.

A statutory trust may hold or take title to property in its own name or in the name of a trustee in the trustee's capacity as trustee, whether in an active, passive, or custodial capacity.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 307 of the Uniform Statutory Trust Entity Act.

§ 29-1203.08. Power to sue and be sued.

A statutory trust may sue and be sued in its own name.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.04 and § 29-1204.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 308 of the Uniform Statutory Trust Entity Act.

Subchapter IV. Series Trusts.

§ 29-1204.01. Statutory trust having series.

(a) The governing instrument may provide for the creation by the statutory trust of one or more series with respect to specified property of the statutory trust if:

(1) Records are maintained for the series which reasonably identify the property of the series, including by specific listing, category, type, quantity, or computational or allocational formula or procedure, such as a percentage or share of any property, or by any other method by which the identity of the property of the series is objectively determinable; and

(2) Notice that the trust may have one or more series is set forth in the certificate of trust as required by § 29-1202.01(b)(4).

(b) A series of a statutory trust shall not be an entity separate from the statutory trust.

(c) A series of a statutory trust may have a purpose, regardless of whether for profit, separate from the trust or any other series thereof if the purpose of the series is lawful and not a predominantly donative purpose.

(d) Subject to § 29-1204.03, the governing instrument may provide for the creation of one or more classes of trustees, beneficial owners, or beneficial interests having separate rights, powers, or duties with respect to the statutory trust or any series thereof.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(5)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.02, § 29-1201.04, and § 29-1204.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “purpose, regardless of whether for profit, separate” for “separate purpose” in (c); and added (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 401 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1204.02. Liability of series trust.

(a) In a series trust, a debt, obligation, or other liability incurred or otherwise existing [with] respect to the:

(1) Property of a particular series shall be enforceable against the property of the series only, and not against the property of the trust generally or any other series thereof; and

(2) Trust generally or the property of any other series thereof shall not be enforceable against the property of the series.

(b) The association, disassociation, or reassociation of property of a statutory trust or a series thereof to or with the trust or a series thereof, including by a transaction under subchapter VII of this chapter or Chapter 2 of this title

is deemed to be a transfer between separate persons under Chapter 31 of Title 28 and a distribution under § 29-1206.15.

(c) The rules pertaining to distributions under §§ 29-1206.15 and 29-1206.16 apply to a distribution from a series trust and from the property of any series thereof, except for a distribution under § 29-1204.04.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(5)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04 and § 29-1204.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210, in (b), substituted “a transaction under subchapter VII of this chapter or Chapter 2 of this title is” for “conversion or merger under subchapter VII of this chapter shall be” and added “and a distribution under § 29-1206.15”; and added (c).

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 402 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1204.03. Duties of trustee in series trust.

If there is at least one trustee of a series trust that, in discharging its duties, is obligated to consider the interests of the trust and all series thereof, the governing instrument may provide that one or more other trustees, in discharging their duties, may consider only the interests of the trust or one or more series thereof.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.03, § 29-1201.04, § 29-1204.01, and § 29-1205.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 403 of the Uniform Statutory Trust Entity Act.

§ 29-1204.04. Dissolution of series.

(a) A series of a series trust may be dissolved or its property distributed without causing the dissolution of the trust or any other series thereof.

(b) A series of a series trust is dissolved, and its activities shall be wound up, on the occurrence of an event or circumstance that the governing instrument states causes dissolution of the series or upon the dissolution of the trust.

(c) On dissolution of a series of a series trust, the persons that under the governing instrument are responsible for winding up the affairs of the series may cause the trust to take all actions permitted under § 29-1208.03, and shall take actions with respect to the claims and obligations of the series as provided in §§ 29-1208.03 through § 29-1208.05.

(d) Any person, including a trustee, that under the governing instrument is responsible for winding up the affairs of a series of a series trust shall not be liable to the creditors of the dissolved series by reason of the person’s actions in winding up the series.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.04 and § 29-1204.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 404 of the Uniform Statutory Trust Entity Act.

§ 29-1204.05. Claims pertaining to a series.

(a) A series of a statutory trust may not sue or be sued in its own name.

(b) If a series trust has a claim against a person which pertains to the property of a series thereof, the trust may assert the claim under § 29-1203.08 and shall allocate the proceeds of the claim under §§ 29-1204.01 and 29-1204.02.

(c) If a person has a claim against a series trust which pertains to the property of a series thereof, to assert the claim the person must bring the claim against the trust, stating that the claim pertains to the property of a series thereof and specifying the series if known. To the extent the claim succeeds and is reduced to judgment:

(1) The judgment must state that it is collectable only against the property of the specified series; and

(2) The judgment creditor may levy on the judgment only by serving the series trust, which shall satisfy the judgment by using only the property of the specified series.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(5)(C), 59 DCR 13171.)

Legislative history of Law 19-210. — See note to § 29-1201.02.

210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

Subchapter V. Trustees and Trust Management.

§ 29-1205.01. Management of statutory trust.

The activities and affairs of a statutory trust shall be managed by or under the authority of its trustees.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(6)(A), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business.”

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 501 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1205.02. **Trustee powers.**

A trustee may exercise:

- (1) Powers conferred by the governing instrument;
- (2) Except as limited by the governing instrument, any other powers necessary or convenient to carry out the activities and affairs of the statutory trust; and
- (3) Other powers conferred by this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(6)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “activities” for “business” in (2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 502 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1205.03. **Action by trustees.**

On any matter that is to be acted on by trustees, the following rules apply:

- (1) The trustees shall act by majority of the trustees.
- (2) The trustees may act without a meeting, without previous notice, and without a vote, if the minimum number of trustees necessary to authorize or take the action at a meeting at which all trustees entitled to vote thereon were present and voted consent in a signed record. However, prompt notice of the action shall be given to those trustees that did not consent.

(3) A trustee may vote in person or by proxy, but, if by proxy, the proxy shall be in a signed record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 503 of the Uniform Statutory Trust Entity Act.

§ 29-1205.04. **Protection of person dealing with trustee.**

(a) A person that in good faith assists a trustee, or in good faith and for value deals with a trustee, without knowledge that the trustee is exceeding or improperly exercising the trustee’s power, shall be protected from liability as if the trustee properly exercised the power.

(b) A person that in good faith deals with a trustee need not inquire into the extent of a trustee’s power or the propriety of the exercise of the power.

(c) A person that in good faith delivers property to a trustee need not ensure its proper use.

(d) A person that in good faith and without knowledge that the trusteeship has terminated assists a former trustee as if the former trustee were still a trustee, or in good faith and for value deals with a former trustee as if the

former trustee were still a trustee shall be protected from liability as if the former trustee were still a trustee.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 504 of the Uniform Statutory Trust Entity Act.

§ 29-1205.05. Standards of conduct for trustees.

(a) Subject to § 29-1204.03, in exercising the powers of trusteeship, a trustee shall act in good faith and in a manner the trustee reasonably believes to be in the best interests of the statutory trust.

(b) A trustee shall discharge its duties with the care that a person in a similar position would reasonably believe appropriate under similar circumstances.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.04, § 29-1205.09, and § 29-1206.16.

Editor's notes. — Uniform Law: This section is based on § 505 of the Uniform Statutory Trust Entity Act.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

§ 29-1205.06. Reasonable reliance.

A trustee, officer, employee, manager, or committee of a statutory trust, or other person designated pursuant to § 29-1201.03(e)(8) or (9) is not liable to the trust or to a beneficial owner for breach of any duty, including a fiduciary duty, to the extent the breach results from reasonable reliance on:

- (1) A term of the governing instrument;
- (2) A record of the statutory trust; or
- (3) An opinion, report, or statement of another person that the trustee reasonably believes is within the other person's professional or expert competence and is made or delivered to the trustee, officer, employee, manager, or committee of a statutory trust or other person designated pursuant to § 29-1201.03(e)(8) or (9).

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(6)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Reasonable" for "Good-faith" in the section heading; in the introductory language substituted "§ 29-1201.03(e)(8) or (9) is not" for "§ 29-1201.03(e)(8), shall not be" and "reason-

able" for "good-faith"; and added "or (9)" at the end of (3).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This sec-

tion is based on § 506 of the Uniform Statutory Trust Entity Act.

Law 19-210 provided that the act shall apply as of January 1, 2012.

Application of Law 19-210: Section 7 of D.C.

§ 29-1205.07. Interested transactions.

(a) For the purposes of this section, the term “covered party” means a trustee, officer, employee, or manager of a statutory trust, or a related party of a trustee, officer, employee, manager, or other person designated pursuant to § 29-1201.03(e)(8) or (9).

(b) Subject to subsection (c) of this section, a covered party may lend money to, borrow money from, act as a surety, guarantor, or endorser for, guarantee or assume an obligation of, provide collateral for, or do other business with the statutory trust and, subject to law other than this title, has the same rights and obligations with respect to those matters as a person that is not a covered party.

(c) A transaction described in subsection (b) of this section shall be voidable by the statutory trust unless the covered party shows that the transaction is fair to the trust.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(6)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1206.07.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added “or (9)” at the end of (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 507 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1205.08. Trustee’s right to information.

A trustee shall have the right to receive from a statutory trust or another trustee information relating to the affairs of the trust which is reasonably related to the trustee’s discharge of the trustee’s duties as trustee. The trustee may enforce this right by summary proceeding in the Superior Court.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.04 and § 29-1206.14.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor’s notes. — Uniform Law: This section is based on § 508 of the Uniform Statutory Trust Entity Act.

§ 29-1205.09. Reimbursement, indemnification, advancement, and exoneration.

(a) A statutory trust shall reimburse a trustee for any payment made by the trustee in the course of the trustee’s activities on behalf of the statutory trust,

if the trustee complied with §§ 29-1205.05 and 29-1206.15 in making the payment.

(b) A statutory trust may indemnify and hold harmless a trustee, beneficial owner, or person designated pursuant to § 29-1201.03(e)(8) or (9) with respect to any claim or demand against the person by reason of the person's relationship with the trust if the claim or demand does not arise from the person's bad faith, willful misconduct, or reckless indifference.

(c) Expenses, including reasonable attorneys' fees and costs, incurred by a trustee, beneficial owner, or person designated pursuant to § 29-1201.03(e)(8) or (9) in connection with a claim or demand against the person by reason of the person's relationship to a statutory trust may be paid by the trust before the final disposition of the claim or demand, upon an undertaking by or on behalf of the person to repay the trust if the person is ultimately determined not to be entitled to be indemnified under subsection (b) of this section.

(d) A term in the governing instrument relieving or exonerating a trustee or person designated pursuant to § 29-1201.03(e)(8) or (9) from liability is unenforceable to the extent it relieves or exonerates the trustee from liability for conduct involving bad faith, willful misconduct, or reckless indifference.

(e) A statutory trust may purchase and maintain insurance on behalf of a trustee, person designated under § 29-1201.03(e)(8) or (9), or beneficial owner of the trust, against any liability asserted against or incurred by the trustee, person, or beneficial owner in that capacity, or arising from that status. The purchase and maintenance of insurance may occur even if, under § 29-1201.04(9), the trust instrument cannot limit or eliminate a person's liability to the trust for the conduct giving rise to the liability.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(6)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section and the section heading.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 509 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1205.10. Direction of trustees.

(a) The governing instrument may authorize any person, including a beneficial owner, to direct a trustee or other person in the management of a statutory trust.

(b) The governing instrument may provide that the power to direct a trustee or other person or the exercise of the power by any person, including a beneficial owner, shall not cause the person to be a trustee or impose on the person duties, including fiduciary duties, or liabilities relating to these duties, to a statutory trust or beneficial owner.

(c) If the governing instrument confers on a person a power to direct actions by a trustee or other person, the trustee or other person shall act in accordance

with an exercise of the power, unless the direction is manifestly contrary to the terms of the governing instrument or the trustee knows or has reason to know that following the direction would constitute a serious breach of fiduciary duty by the trustee.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 510 of the Uniform Statutory Trust Entity Act.

§ 29-1205.11. Delegation by trustee.

(a) A trustee may delegate duties and powers. The trustee shall exercise the care a person in a similar position would reasonably believe appropriate under similar circumstances in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation; and
- (3) Periodically reviewing the agent's actions to monitor the agent's performance and compliance with the terms of the delegation.

(b) Subject to subsection (a) of this section, a trustee may delegate duties and powers to a co-trustee.

(c) In performing a delegated function, an agent of a trustee shall owe a duty to the statutory trust to exercise reasonable care to comply with the terms of the delegation.

(d) A trustee that complies with subsection (a) of this section shall not be liable to a beneficial owner or to the statutory trust for an act or omission of the agent of the trustee to which a function was delegated.

(e) An agent of a trustee submits to the jurisdiction of the courts of the District by accepting a delegation of powers or duties from a trustee with respect to a claim related to the agency.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 511 of the Uniform Statutory Trust Entity Act.

§ 29-1205.12. Independent trustee in registered investment company.

(a) For the purposes of this section, the term “affiliated person” and “interested person” have the meanings as provided in section 2(3) and (19) of the Investment Company Act of 1940, (54 Stat. 790; 15 U.S.C. § 80a-2(3) and (19)), and any regulations issued thereunder.

(b) If a statutory trust is registered as an investment company under the Investment Company Act of 1940, approved August 22, 1940 (54 Stat. 789; 15 U.S.C. § 80a-1 et seq.), or any successor statute and any regulations issued thereunder, a trustee shall be an independent trustee for all purposes under

this chapter if the trustee shall is not an [sic] interested person of the trust. The receipt of compensation both for service as an independent trustee of the trust and for service as an independent trustee of one or more other investment companies managed by a single investment adviser or an affiliated person of an investment adviser, shall not affect the status of the trustee as an independent trustee under this section.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 512 of the Uniform Statutory Trust Entity Act.

Subchapter VI. Beneficial Owners.

§ 29-1206.01. Beneficial interest.

- (a) A beneficial interest in a statutory trust is personal property.
- (b) A beneficial interest in a statutory trust shall not be an interest in specific property of the statutory trust.
- (c) A beneficial owner shall not have a preemptive right to subscribe to any additional issue of beneficial interests or any other interest of a statutory trust.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(B), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 repealed former (a); redesignated former “(b) through (d) as (a) through (c); and substituted ““is personal property” for ““shall be personal property regardless of the nature of the property of the trust” in (a).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 601 of the Uniform Statutory Trust Entity Act.

Section 2(l)(7)(A) of D.C. Law 19-210 substituted “Beneficial Owners” for “Beneficiaries and Beneficial Rights” in the subchapter heading.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.02. Voting or consent by beneficial owners.

On any matter that is to be acted on by beneficial owners, the following rules apply:

- (1) The beneficial owners shall act by majority of the beneficial interests.
- (2) The beneficial owners may take the action without a meeting, without notice, and without a vote, if beneficial owners having at least the minimum number of votes necessary to authorize or take the action at a meeting at which all beneficial owners entitled to vote thereon were present and voted consent in a signed record. However, prompt notice of the action shall be given to those beneficial owners that did not consent.
- (3) A beneficial owner may vote in person or by proxy, but if by proxy, the proxy shall be contained in a signed record.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 602 of the Uniform Statutory Trust Entity Act.

§ 29-1206.03. Contribution by beneficial owner.

(a) A contribution of a beneficial owner to a statutory trust may consist of property transferred, services performed, or another benefit provided to the statutory trust, or an agreement to transfer property, perform services, or provide another benefit. A person may become a beneficial owner of a statutory trust and may receive a beneficial interest in a statutory trust without making a contribution or being obligated to make a contribution to the trust.

(b) A person's obligation to contribute money or other property or other benefit to, or to perform services for, a statutory trust is not excused by the person's death, disability, or other inability to perform the person's obligations personally. If a person does not fulfill an obligation to make a contribution, other than a monetary contribution, the person is obligated at the option of the trustee to contribute money equal to the value of the part of the contribution which has not been made.

(c) The governing instrument may provide that a beneficial owner that fails to make a required contribution, or comply with the terms and conditions of the governing instrument, shall be subject to specified penalties for or consequences of the failure, including:

(1) Reduction or elimination of the defaulting beneficial owner's proportionate interest in the statutory trust or series thereof;

(2) Subordination of the defaulting beneficial owner's beneficial interest to that of nondefaulting beneficial owners;

(3) Forced sale or forfeiture of the defaulting beneficial owner's beneficial interest;

(4) Imposition of an obligation to repay a loan to the statutory trust by another beneficial owner of the amount necessary to meet the defaulting beneficial owner's commitment;

(5) Redemption or sale of the defaulting beneficial owner's beneficial interest at a value fixed by appraisal or by formula; and

(6) Specific performance of an obligation under the governing instrument.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(1)(7)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "consist of property transferred, services performed, or another benefit provided to the statutory trust, or an agreement to transfer property, perform services, or provide another benefit" for "be in cash, property, or services rendered or a promissory note or other obligation to contribute cash or property or to perform

services" in the first sentence of (a); and rewrote (b).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 603 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C.

Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.04. Distribution to beneficial owner.

(a) When a beneficial owner becomes entitled to receive a distribution, with respect to the distribution, the beneficial owner shall have the status of, and shall be entitled to all remedies available to, a creditor of the statutory trust.

(b) A beneficial owner has a right to a distribution before the dissolution and winding up of a statutory trust only if the trustee decides to make an interim distribution. A beneficial owner shall not have a right to demand or to receive a distribution from the trust in any form other than money.

(c) Except as otherwise provided in § 29-1208.03(b), the trust may distribute an asset in kind if each part of the asset is fungible with each other part and each beneficial owner receives a percentage of the asset equal in value to the beneficial owner's share of the distribution.

(d) Any distributions made by a statutory trust before its dissolution and winding up must be in proportion to the beneficial interests.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(D), 59 DCR 13171.)

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 added the first sentence in (b); added "Except as otherwise provided in § 29-1208.03(b)" in (c); and added (d).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 604 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.05. Redemption of beneficial interest.

A statutory trust may acquire, by purchase, redemption, or otherwise, any beneficial interest in the trust or series thereof. A beneficial interest acquired under this section shall be canceled.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 605 of the Uniform Statutory Trust Entity Act.

§ 29-1206.06. Transfer of beneficial interest.

(a) For the purposes of this section, "covered creditor" means a judgment creditor of a beneficial owner or a person to which a beneficial interest has been transferred by operation of law.

(b) Except as otherwise provided in the governing instrument, a beneficial interest in a statutory trust is freely transferable.

(c) The governing instrument may not limit the transferability of a beneficial interest if the same person is the sole trustee and sole beneficial owner.

(d) If a beneficial interest is not freely transferable by a beneficial owner

such that a transferee may become a beneficial owner without further requirement except notice to the statutory trust, the following rules apply:

(1) On petition by a covered creditor, the Superior Court may authorize the petitioner to reach the beneficial owner's interest by attachment of present or future distributions to or for the benefit of the beneficial owner or by other means. The court may limit the award to relief that is appropriate under the circumstances.

(2) On petition by a covered creditor, to the extent a trustee has not complied with a standard of distribution provided in the governing instrument or has abused the trustee's discretion to make a distribution, the Superior Court:

(A) May order a distribution to the benefit of the petitioner; and

(B) If a distribution is ordered, shall direct the trustee to pay to the petitioner an equitable amount but not more than the amount the trustee would have been required to distribute to or for the benefit of the beneficial owner if the trustee had complied with the standard or had not abused the discretion.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(1)(7)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 606 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.07. Transaction with beneficial owner.

Subject to § 29-1205.07, a beneficial owner or related party of a beneficial owner may lend money to, borrow money from, act as a surety, guarantor, or endorser for, guarantee or assume an obligation of, provide collateral for, or do other business with the statutory trust and, subject to law other than this chapter, shall have the same rights and obligations with respect to a matter as a person that is not a beneficial owner.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 607 of the Uniform Statutory Trust Entity Act.

§ 29-1206.08. Beneficial owner's right to information.

A beneficial owner shall have the right to receive from the statutory trust or a trustee information relating to the affairs of a statutory trust which is reasonably related to the beneficial owner's interest. The beneficial owner may enforce this right by summary proceeding in the Superior Court.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1201.04 and § 29-1206.14.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 608 of the Uniform Statutory Trust Entity Act.

§ 29-1206.09. Direct action by beneficial owner.

A beneficial owner may maintain a direct action against a statutory trust to redress an injury sustained by, or to enforce a duty owed to, the beneficial owner only if the owner can plead and prove an actual or threatened injury that is not solely the result of an injury suffered or threatened to be suffered by the statutory trust.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(F), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 rewrote the section.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 609 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.10. Derivative action by beneficial owner.

A beneficial owner may maintain a derivative action to enforce a right of a statutory trust if:

(1) The beneficial owner first makes a demand on the trustees, requesting that the trustees cause the trust to bring an action to redress the injury or enforce the right, and the trustees do not bring the action within a reasonable time; or

(2) A demand would be futile.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(G), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.11. Proper plaintiff.

A derivative action to enforce a right of a statutory trust may be maintained only by a person that is a beneficial owner at the time the action is commenced and:

(1) Was a beneficial owner when the conduct giving rise to the action occurred; or

(2) Whose status as a beneficial owner devolved upon the person by

operation of law or pursuant to the terms of the governing instrument from a person that was a beneficial owner at the time of the conduct.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-1201.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-1206.12. Pleading.

In a derivative action to enforce a right of a statutory trust, the complaint shall state with particularity the:

(1) Date and content of the plaintiff's demand and the trustees' response to the demand; or

(2) Reason the demand should be excused as futile.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-1201.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-1206.13. Proceeds and expenses.

(a) Except as otherwise provided in subsection (b) of this section:

(1) Any proceeds or other benefits of a derivative action on behalf of a statutory trust, whether by judgment, compromise, or settlement belong to the trust and not to the plaintiff; and

(2) If the plaintiff receives any proceeds, the plaintiff shall immediately remit them to the trust.

(b) If a derivative action on behalf of a statutory trust is successful in whole or in part, the court may award the plaintiff reasonable attorneys' fees, costs, and other expenses from the recovery by the trust.

(c) A derivative action on behalf of a statutory trust shall not be voluntarily dismissed or settled without the court's approval.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(G), 59 DCR 13171.)

Legislative history of Law 19-210. — See 210: Section 7 of D.C. Law 19-210 provided that note to § 29-1201.02. the act shall apply as of January 1, 2012.

Editor's notes. — Application of Law 19-

§ 29-1206.14. Special litigation committee.

(a) If a statutory trust is named as or made a party in a derivative proceeding, the trust may appoint a special litigation committee to investigate the claims asserted in the proceeding and determine whether pursuing the action is in the best interests of the trust. If the trust appoints a special litigation committee, on motion by the committee made in the name of the trust, except for good cause shown, the court shall stay discovery for the time reasonably necessary to permit the committee to complete its investigation. This subsection does not prevent the court from enforcing a person's right to

information under § 29-1205.08 or § 29-1206.08, for good cause shown, granting extraordinary relief in the form of a temporary restraining order or preliminary injunction.

(b) A special litigation committee may be composed of one or more disinterested and independent individuals, who may be trustees.

(c) A special litigation committee may be appointed:

(1) By a majority of the trustees not named as defendants or plaintiffs in the proceeding; and

(2) If all trustees are named as defendants or plaintiffs in the proceeding, by a majority of the trustees named as defendants.

(d) After appropriate investigation, a special litigation committee may determine that it is in the best interests of the statutory trust that the proceeding:

- (1) Continue under the control of the plaintiff;
- (2) Continue under the control of the committee;
- (3) Be settled on terms approved by the committee; or
- (4) Be dismissed.

(e) After making a determination under subsection (d) of this section, a special litigation committee shall file with the court a statement of its determination and its report supporting its determination and shall serve each party with a copy of the determination and report. The court shall determine whether the members of the committee were disinterested and independent and whether the committee conducted its investigation and made its recommendation in good faith, independently, and with reasonable care, with the committee having the burden of proof. If the court finds that the members of the committee were disinterested and independent and that the committee acted in good faith, independently, and with reasonable care, the court shall enforce the determination of the committee. Otherwise, the court shall dissolve the stay of discovery entered under subsection (a) of this section and allow the action to proceed under the direction of the plaintiff.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(H), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1201.04.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.15. Limitations on distributions.

(a) A statutory trust may not make a distribution, including a distribution under § 29-1208.03(b)(2), if after the distribution:

(1) The trust would not be able to pay its debts as they become due in the ordinary course of the trust's activities and affairs; or

(2) The trust's total assets would be less than the sum of its total liabilities plus, unless the governing instrument permits otherwise, the amount that would be needed, if the trust were to be dissolved and wound up at the time of the distribution, to satisfy the preferential rights upon dissolution and winding up of beneficial owners and transferees whose preferential

rights are superior to the right to receive distributions of the persons receiving the distribution.

(b) A trustee may base a determination that a distribution is not prohibited under subsection (a) of this section on:

(1) Financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances; or

(2) A fair valuation or other method that is reasonable under the circumstances.

(c) Except as otherwise provided in subsection (e) of this section, the effect of a distribution under subsection (a) of this section is measured:

(1) In the case of a distribution by purchase, redemption, or other acquisition of a beneficial interest, as of the earlier of the date:

(A) Money or other property is transferred or debt is incurred by the trust; or

(B) The person entitled to the distribution ceases to own the interest or rights being acquired by the trust in return for the distribution;

(2) In the case of any other distribution of indebtedness, as of the date the indebtedness is distributed; and

(3) In all other cases, as of the date:

(A) The distribution is authorized, if the payment occurs not later than 120 days after that date; or

(B) The payment is made, if the payment occurs more than 120 days after the distribution is authorized.

(d) A statutory trust's indebtedness to a beneficial owner or transferee incurred by reason of a distribution made in accordance with this section is at parity with the trust's indebtedness to its general, unsecured creditors, except to the extent subordinated by agreement.

(e) A statutory trust's indebtedness, including indebtedness issued as a distribution, is not a liability for purposes of subsection (a) of this section if the terms of the indebtedness provide that payment of principal and interest are made only if and to the extent that payment of a distribution could then be made under this section. If indebtedness is issued as a distribution, each payment of principal or interest is treated as a distribution, the effect of which is measured on the date the payment is actually made.

(f) In measuring the effect of a distribution under § 29-1208.03(b)(2), the debts, obligations, and other liabilities of a dissolved statutory trust do not include any claim that has been disposed of under § 29-1208.04, 29-1208.05, or 29-1208.06.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(H), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1204.02, § 29-1205.09, and § 29-1206.16.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1206.16. Liability for improper distributions.

(a) If a trustee of a statutory trust consents to a distribution made in violation of § 29-1206.15 and in consenting to the distribution fails to comply with § 29-1205.05, the trustee is personally liable to the trust or the series thereof for the amount of the distribution which exceeds the amount that could have been distributed in accordance with § 29-1206.15.

(b) A person that receives a distribution knowing that the distribution was made in violation of § 29-1206.15 is personally liable to the statutory trust or series thereof, but only to the extent that the distribution received by the person exceeded the amount that could have been properly paid under § 29-1206.15.

(c) A person against which an action is commenced because the person is liable under subsection (a) or (b) of this section may implead:

(1) Any other person that is liable under subsection (a) of this section and seek to enforce a right of contribution from that person; and

(2) Any person that received a distribution in violation of subsection (c) of this section and seek to enforce a right of contribution from that person in the amount the person received in violation of subsection (c) of this section.

(d) An action under this section is barred if not commenced not later than 2 years after the distribution.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(7)(H), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1204.02.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter VII. Merger.

§ 29-1207.01. Definitions.

For the purposes of this subchapter, the term:

(1) "Constituent statutory trust" means a statutory trust that is party to a merger.

(2) "Governing law" means the law that governs the organization's internal affairs.

(3)(A) "Organization" means:

(i) A common-law trust that does not have a predominantly donative purpose;

(ii) General partnership, including a limited liability partnership;

(iii) Limited partnership, including a limited liability limited partnership;

(iv) Limited liability company;

(v) Corporation; or

(vi) Foreign statutory trust.

(B) The term "organization" shall include a domestic or foreign organization whether or not organized for profit.

(4) "Organizational documents" means the records that create an organi-

zation and determine its internal governance and the relations among the persons that own it, have an interest in it, or are members of it.

(5) "Surviving organization" means an organization into which one or more other organizations are merged, whether the surviving organization preexisted the merger or was created by the merger.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 701 of the Uniform Statutory Trust Entity Act.

§ 29-1207.02. Merger.

(a) A statutory trust may merge with one or more other constituent organizations pursuant to this section, §§ 29-1207.03 through 29-1207.05, and a plan of merger if:

(1) The merger is not prohibited by the governing law of any constituent organization; and

(2) Each of the other organizations complies with its governing law in effecting the merger.

(b) A plan of merger shall be in a record and shall include:

(1) The name and form of each constituent organization;

(2) The name and form of the surviving organization and, if the surviving organization is to be created by the merger, a statement to that effect;

(3) The terms and conditions of the merger, including the manner and basis for converting or exchanging the interests in each constituent organization into any combination of money, interests in the surviving organization, and other consideration;

(4) If the surviving organization is to be created by the merger, the surviving organization's organizational documents; and

(5) If the surviving organization is not to be created by the merger, any amendments to be made by the merger to the surviving organization's organizational documents.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 702 of the Uniform Statutory Trust Entity Act.

§ 29-1207.03. Action on plan of merger by constituent statutory trust.

(a) A plan of merger shall be consented to by all trustees and all beneficial owners of a constituent statutory trust.

(b) After a merger is approved, and at any time before a filing is made under § 29-1207.04, a constituent statutory trust may amend the plan or abandon the planned merger:

(1) As provided in the plan; and

(2) Except as prohibited by the plan, with the same consent as was required to approve the plan.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1207.02.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 703 of the Uniform Statutory Trust Entity Act.

§ 29-1207.04. Filings required for merger; effective date.

(a) After each constituent organization has approved a merger, articles of merger shall be signed on behalf of each:

(1) Constituent statutory trust, by one or more trustees or other authorized representative; and

(2) Other constituent organization, by an authorized representative.

(b) Articles of merger under this section shall include:

(1) The name and form of each constituent organization and the jurisdiction of its governing law;

(2) The name and form of the surviving organization, the jurisdiction of its governing law, and, if the surviving organization is created by the merger, a statement to that effect;

(3) If the surviving organization is to be created by the merger:

(A) If it will be a statutory trust, the trust's certificate of trust; or

(B) If it will be an organization other than a statutory trust, the organizational document that creates the organization;

(4) If the surviving organization preexisted the merger, any amendments provided for in the plan of merger for the organizational document that created the organization;

(5) A statement as to each constituent organization that the merger was approved as required by the organization's governing law;

(6) If the surviving organization is a foreign organization not authorized to do business in the District, the street and mailing address of an office that the Mayor may use for the purposes of § 29-1207.05(b); and

(7) Any additional information required by the governing law of any constituent organization.

(c) The articles of merger shall be delivered to the office of the Mayor for filing.

(d) A merger shall be effective under this chapter:

(1) If the surviving organization is a statutory trust, upon the later of:

(A) Filing of the articles of merger by the Mayor; or

(B) Subject to § 29-102.03, as specified in the articles of merger; or

(2) If the surviving organization is not a statutory trust, as provided by the governing law of the surviving organization[.]

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1207.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 704 of the Uniform Statutory Trust Entity Act.

§ 29-1207.05. Effect of merger.

(a) When a merger becomes effective:

- (1) The surviving organization shall continue or comes into existence;
- (2) Each constituent organization that merges with the surviving organization shall cease to exist as a separate organization;
- (3) All property owned by each constituent organization that ceases to exist shall vest in the surviving organization;
- (4) All debts, obligations, and other liabilities of each constituent organization that ceases to exist, including those existing with respect to the property of a series thereof, shall continue as debts, obligations, or other liabilities of the surviving organization limited to the property thereof as provided for by the plan of merger and the governing law of the surviving organization;
- (5) An action or proceeding pending by or against any constituent organization that ceases to exist shall continue as if the merger had not occurred;
- (6) Except as prohibited by law other than this chapter, all rights, privileges, immunities, powers, and purposes of each constituent organization that ceases to exist shall vest in the surviving organization;
- (7) Except as otherwise provided in the plan of merger, the terms and conditions of the plan of merger shall take effect;
- (8) If the surviving organization is created by the merger and:
 - (A) If it is a statutory trust, the certificate of trust becomes effective; or
 - (B) If it is an organization other than a statutory trust, the organizational document that creates the organization shall become effective; and
- (9) If the surviving organization preexisted the merger, any amendment provided for in the articles of merger for the organizational document that created the organization shall become effective.

(b) A surviving organization that is a foreign organization consents to the jurisdiction of the courts of the District to enforce any debt, obligation, or other liability owed by a constituent organization if, before the merger, the constituent organization was subject to suit in the District on the obligation. A surviving organization that is a foreign organization not authorized to do business in the District may be served in accordance with § 29-104.12.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1207.04.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 705 of the Uniform Statutory Trust Entity Act.

§ 29-1207.06. Chapter not exclusive.

This chapter shall not preclude an organization from being merged under law other than this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 706 of the Uniform Statutory Trust Entity Act.

Subchapter VIII. Dissolution and Winding Up.

§ 29-1208.01. Events causing dissolution.

A statutory trust shall be dissolved only by:

- (1) An administrative dissolution under §§ 29-106.01 and 29-106.02; or
- (2) The filing of articles of dissolution under § 29-1208.02:
 - (A) As provided in the certificate of trust; or
 - (B) With the approval of all the beneficial owners.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(8)(A), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1208.02.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “As provided in the certificate of trust” for “On the occurrence of an event or circumstance that the governing instrument states causes dissolution” in (2)(A).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 801 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1208.02. Articles of dissolution.

(a) If dissolution of a statutory trust is authorized under § 29-1208.01, the trust shall deliver to the Mayor for filing articles of dissolution setting forth the:

- (1) Name of the trust; and
- (2) Date of the dissolution.

(b) Except as otherwise provided in § 29-102.03, a statutory trust is dissolved when articles of dissolution that comply with subsection (a) of this section, are filed by the Mayor.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Section references. — This section is referenced in § 29-1208.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 802 of the Uniform Statutory Trust Entity Act.

§ 29-1208.03. Winding up.

(a) A dissolved statutory trust shall wind up its activities and the trust and each series thereof shall continue after dissolution only for the purpose of its winding up.

(b) In winding up its activities, a statutory trust shall:

(1) Discharge the trust's debts, obligations, and other liabilities, settle and close the trust's activities, and marshal and distribute the property of the trust; and

(2) Distribute any surplus property after complying with paragraph (1) of this subsection to the beneficial owners in proportion to their beneficial interests.

(c) In winding up its activities, a statutory trust may:

(1) Preserve the trust's activities and property as a going concern for a reasonable time;

(2) Institute, maintain, and defend actions and proceedings, whether civil, criminal, or administrative;

(3) Transfer the trust's property;

(4) Settle disputes; and

(5) Perform other acts necessary or appropriate to its winding up.

(d) Trustees of a dissolved statutory trust that has disposed of claims under § 29-1208.04 or § 29-1208.05 shall not be liable for breach of duty with respect to claims against the trust that are barred or satisfied under § 29-1208.04 or § 29-1208.05.

(e) The dissolution of a statutory trust shall not terminate the authority of its registered agent.

(f) On application of any person that shows good cause, the Superior Court may appoint a person to be a receiver for a dissolved statutory trust with the power to undertake any action that might have been done by the trust during its winding up if the action is necessary for final settlement of the trust.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(8)(B), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1204.04, § 29-1206.04, and § 29-1206.15.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "subsection" for "section" in (b)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 803 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1208.04. Known claims against dissolved statutory trust.

(a) Except as otherwise provided in subsection (c) of this section, a dissolved statutory trust may give notice of a known claim which has the effect provided in subsection (b) of this section. The trust may, in a record, notify its known claimants of the dissolution. The notice shall:

- (1) Specify the information required to be included in the claim;
 - (2) Provide a mailing address to which the claim is to be sent;
 - (3) State the deadline for receipt of the claim, which shall not be less than 120 days after the date the notice is sent to the claimant; and
 - (4) State that the claim will be barred if not received by the deadline.
- (b) A claim against a dissolved statutory trust is barred if the requirements of subsection (a) of this section are met and:
- (1) The claim is not received by the specified deadline; or
 - (2) If the claim is timely received but rejected by the trust:
 - (A) The trust notifies the claimant in a record that the claim is rejected and will be barred unless the claimant commences an action against the trust to enforce the claim not later than the 90th day after the claimant receives the notice; and
 - (B) The claimant does not commence the required action not later than the 90th day.
- (c) This section shall not apply to a claim based on:
- (1) An event occurring after the effective date of dissolution; or
 - (2) A liability that on that date is contingent.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(8)(C), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1206.15, § 29-1208.03, and § 29-1208.05.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted “Known claims against dissolved statutory trust” for “Notice to claimant” in the section heading; substituted “give notice of a known claim which has the effect provided in subsection (b) of this section. The trust may, in a record, notify its known claimants of the dissolution” for “dispose of a known claim against it by sending notice to the claimant in a record of

the dissolution of the trust” in (a); and deleted “unmatured or” preceding “contingent” in (c)(2).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor’s notes. — Uniform Law: This section is based on § 804 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1208.05. Other claims against dissolved statutory trust.

(a) A dissolved statutory trust may publish notice of its dissolution and request persons having claims against the trust to present them in accordance with the notice.

(b) A notice under subsection (a) of this section shall:

- (1) Be published at least once in a newspaper of general circulation in the District or, if it has no principal office in the District, in the city in which the trust’s principal office is or was last located;
- (2) Describe the information required for a claim;
- (3) Provide a mailing address to which the claim may be sent; and
- (4) State that a claim against the trust shall be barred unless an action to enforce the claim is commenced not later than 3 years after publication of the notice.

(c) If a dissolved statutory trust publishes a notice in accordance with subsection (b) of this section, the claim of each of the following claimants is barred unless the claimant commences an action to enforce a claim against the trust not later than 3 years after the publication date of the notice:

(1) A claimant that did not receive notice in a record under § 29-1208.04;

(2) A claimant whose claim was timely sent to the trust but was rejected or not acted on; and

(3) A claimant whose claim is contingent at, or based on an event occurring after, the effective date of dissolution.

(d) A claim not barred under this section or § 29-1208.04 may be enforced against:

(1) A dissolved statutory trust, to the extent of its undistributed property; and

(2) A beneficial owner, except as provided in § 29-1208.06, if property of the trust has been distributed after dissolution, against a beneficial owner to the extent of that person's proportionate share of the claim or property distributed to the beneficial owner after dissolution, whichever is less.

(e) A person's total liability for all claims under subsection (d)(2) of this section does not exceed the total amount of assets distributed to the person after dissolution.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720; Mar. 5, 2013, D.C. Law 19-210, § 2(l)(8)(D), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1206.15, § 29-1208.03, and § 29-1208.06.

Effect of amendments. — The 2013 amendment by D.C. Law 19-210 substituted "Other claims against dissolved statutory trust" for "Publication of notice" in the section heading; in (c), substituted "the claim of each of the following claimants is barred unless" for "unless", and deleted "the claim of each of the following claimants shall be barred" following "date of the notice"; and rewrote (d) and (e).

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Uniform Law: This section is based on § 805 of the Uniform Statutory Trust Entity Act.

Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

§ 29-1208.06. Court proceedings.

(a) A dissolved statutory trust that has published a notice under § 29-1208.05 may file an application with the Superior Court, or, if the principal office is not located in the District, in the appropriate court where the office of its principal office is located, for a determination of the amount and form of security to be provided for payment of claims that are contingent or have not been made known to the dissolved trust or that are based on an event occurring after the effective date of dissolution but which, based on the facts known to the dissolved trust, are reasonably expected to arise after the effective date of dissolution. Provision need not be made for any claim that is or is reasonably anticipated to be barred under § 29-1208.05(c).

(b) Notice of the proceeding must be given by the dissolved statutory trust to each claimant holding a contingent claim whose contingent claim is shown

on the records of the dissolved trust not later than 10 days after the filing of the application under subsection (a) of this section.

(c) The Superior Court may appoint a guardian ad litem to represent all claimants whose identities are unknown in any proceeding brought under this section. The reasonable fees and expenses of the guardian, including reasonable expert witness fees, must be paid by the dissolved statutory trust.

(d) Provision by the dissolved statutory trust for security in the amount and the form ordered by the court under subsection (a) of this section satisfies the dissolved trust's obligations with respect to claims that are contingent, have not been made known to the dissolved trust, or are based on an event occurring after the effective date of dissolution, and such claims may not be enforced against a beneficial owner that received assets in liquidation.

(Mar. 5, 2013, D.C. Law 19-210, § 2(l)(8)(E), 59 DCR 13171.)

Section references. — This section is referenced in § 29-1206.15 and § 29-1208.05.

Legislative history of Law 19-210. — See note to § 29-1201.02.

Editor's notes. — Application of Law 19-210: Section 7 of D.C. Law 19-210 provided that the act shall apply as of January 1, 2012.

Subchapter IX. Transition Provisions.

§ 29-1209.01. Application to existing relationships.

(a) This chapter shall not limit, prohibit, or invalidate the existence, acts, or obligations of any common-law trust created or doing business in the District before or after the applicability date of this chapter. The laws of the District other than this chapter pertaining to trusts shall apply to common-law trusts.

(b) A common-law trust arising under the law of the District before or after the applicability date of this chapter that does not have a prevaillingly donative purpose may elect to be governed by this chapter by filing of a certificate of trust under § 29-1202.01.

(c) A trust created pursuant to a statute of the District that was required by that statute to file a certificate of trust with the Mayor before the applicability date of this chapter may elect to be governed by this chapter by filing an amendment to its certificate of trust under § 29-1202.02.

(d) On and after one year after the applicability date of this chapter, this chapter shall govern the organization and internal affairs of all trusts created pursuant to a statute of the District that was required by that statute to file a certificate of trust with the Mayor before the applicability date of this chapter.

(July 2, 2011, D.C. Law 18-378, § 2, 58 DCR 1720.)

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29-101.01.

Editor's notes. — Uniform Law: This section is based on § 1005 of the Uniform Statutory Trust Entity Act.

CHAPTER 13. BENEFIT CORPORATIONS.

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Subchapter I. Preliminary Provisions.

§ 29-1301.01. Short title.

This chapter may be cited as the “Benefit Corporation Act of 2012”.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Legislative history of Law 19-305. — Law 19-305, the “Benefit Corporation Act of 2012,” was introduced in Council and assigned Bill No. 19-584. The Bill was adopted on first and second readings on December 4, 2012, and

December 18, 2012, respectively. Signed by the Mayor on February 11, 2013, it was assigned Act No. 19-672 and transmitted to Congress for its review. D.C. Law 19-305 became effective on May 1, 2013.

§ 29-1301.02. Definitions.

(a) For the purposes of this chapter, the term:

(1) “Benefit corporation” means a business corporation:

(A) That has elected to become subject to this chapter; and

(B) The status of which as a benefit corporation has not been terminated under § 29-1301.06.

(2) “Benefit director” means either:

(A) The director designated as the benefit director of a benefit corporation under § 29-1303.02; or

(B) A person with one or more of the powers, duties, or rights of a benefit director to the extent provided in the bylaws under § 29-1303.02.

(3) “Benefit enforcement proceeding” means any claim or action for:

(A) Failure of a benefit corporation to pursue or create general public benefit or a specific public benefit purpose set forth in its articles of incorporation; or

(B) A violation of any obligation, duty, or standard of conduct under this chapter.

(4) “Benefit officer” means the individual designated as the benefit officer of a benefit corporation under § 29-1303.04.

(5) “General public benefit” means the material positive impact that the business and operations of a benefit corporation has on society and the environment, taken as a whole, assessed against a third-party standard.

(6) “Independent”, subject to subsection (b) of this section, means having

no material relationship with a benefit corporation or a subsidiary of the benefit corporation. A person who serves as a benefit director or benefit officer is not independent by virtue of such service. A material relationship between a person and a benefit corporation or any of its subsidiaries will be conclusively presumed to exist if any of the following apply:

(A) The person is, or has been within the last 3 years, an employee other than a benefit officer of the benefit corporation or a subsidiary of the benefit corporation.

(B) An immediate family member of the person is, or has been within the last 3 years, an executive officer other than a benefit officer of the benefit corporation or its subsidiary.

(C) There is beneficial or record ownership of 5% or more of the outstanding shares of the benefit corporation by:

(i) The person; or

(ii) An entity of which the person is a director, an officer, or a manager or in which the person owns beneficially or of record 5% or more of the outstanding equity interests.

(7) "Minimum status vote" means:

(A) In the case of a business corporation, in addition to any other required approval or vote, the satisfaction of the following conditions:

(i) The shareholders of every class or series shall be entitled to vote as a separate voting group on the corporate action regardless of a limitation stated in the articles of incorporation or bylaws on the voting rights of any class or series.

(ii) The corporate action must be approved by vote of the shareholders of each voting group entitled to cast at least $\frac{2}{3}$ of the votes that all shareholders of the voting group are entitled to cast on the action.

(B) In the case of an entity other than a business corporation, in addition to any other required approval, vote, or consent, the satisfaction of the following conditions:

(i) The holders of each class or series of equity interest in the entity that are entitled to receive a distribution of any kind from the entity shall be entitled as a separate voting group to vote on or consent to the action regardless of any otherwise applicable limitation on the voting or consent rights of any class or series.

(ii) The action must be approved by vote or consent of each voting group described in sub-subparagraph (i) of this subparagraph entitled to cast at least $\frac{2}{3}$ of the votes or consents that all the members of the group are entitled to cast on the action.

(8) "Specific public benefit" includes:

(A) Providing low-income or underserved individuals or communities with beneficial products or services;

(B) Promoting economic opportunity for individuals or communities beyond the creation of jobs in the normal course of business;

(C) Preserving the environment;

(D) Improving human health;

(E) Promoting the arts, sciences, or advancement of knowledge;

(F) Increasing the flow of capital to entities with a public benefit purpose; and

(G) The accomplishment of any other particular benefit on society or the environment.

(9) "Subsidiary" means, subject to subsection (b) of this section, in relation to a person, an entity in which the person owns beneficially or of record 50% or more of the outstanding equity interests.

(10) "Third-party standard" means a recognized standard for defining, reporting, and assessing corporate social and environmental performance that is:

(A) Comprehensive in that it assesses the effect of the business and its operations upon the interests listed in § 29-1303.01(a)(1)(B), (C), (D), and (E);

(B) Developed by an organization that is independent of the benefit corporation and satisfies the following requirements:

(i) Not more than $\frac{1}{3}$ of the members of the governing body of the organization are representatives of any of the following:

(I) An association of businesses operating in a specific industry the performance of whose members is measured by the third-party standard;

(II) Businesses from a specific industry or an association of businesses in that industry; or

(III) Businesses whose performance is assessed against the standard.

(ii) The organization is not materially financed by an association or business described in sub-subparagraph (i) of this subparagraph;

(C) Credible because the standard is developed by a person that both:

(i) Has access to necessary expertise to assess overall corporate social and environmental performance; and

(ii) Uses a balanced multi-stakeholder approach, including a public comment period of at least 30 days to develop the standard; and

(D) Transparent because the following information is publicly available:

(i) About the standard:

(I) The criteria considered when measuring the overall social and environmental performance of a business; and

(II) The relative weightings of those criteria; and

(ii) About the development and revision of the standard:

(I) The identity of the directors, officers, material owners, and the governing body of the organization that developed and controls revisions to the standard;

(II) The process by which revisions to the standard and changes to the membership of the governing body are made; and

(III) An accounting of the sources of financial support for the organization, with sufficient detail to disclose any relationships that could reasonably be considered to present a potential conflict of interest.

(b) For purposes of the definitions of the terms "independent" and "subsidiary" in subsection (a) of this section, a percentage of ownership in an entity shall be calculated as if all outstanding rights to acquire equity interests in the entity have been exercised.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1301.03. Applicability; construction.

(a) This chapter shall be applicable to all benefit corporations.

(b) This chapter shall not affect a statute or rule of law that is applicable to a business corporation that is not a benefit corporation, and shall not in and of itself create an implication that a contrary or different rule is applicable to a business corporation and not a benefit corporation.

(c) Except as otherwise provided in this chapter, Chapters 1, 2, and 3 of this title shall apply to a benefit corporation organized under this chapter. A benefit corporation may simultaneously be subject to this chapter and one or more other chapters of this title.

(d) A provision of the articles of incorporation or bylaws of a benefit corporation may not relax, be inconsistent with, or supersede a provision of this chapter.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1301.04. Formation of benefit corporations.

A benefit corporation must be formed in accordance with Chapter 3 of this title, but its articles of incorporation must also state that it is a benefit corporation.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1301.05. Election of status.

(a) An existing business corporation may become a benefit corporation under this chapter by amending its articles of incorporation so that they contain, in addition to the requirements of § 29-308.01, a statement that the corporation is a benefit corporation. To be effective, the amendment must be adopted by at least the minimum status vote.

(b)(1) This subsection applies if all of the following apply:

(A) An entity that is not a benefit corporation is:

(i) A party to a merger or consolidation; or

(ii) The exchanging entity in a share exchange; and

(B) The surviving, new, or resulting entity in the merger, consolidation, or share exchange is to be a benefit corporation.

(2) To be effective, a plan of merger, consolidation or share exchange

subject to this subsection must be adopted by at least the minimum status vote.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1301.06.

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1301.06. Termination of status.

(a) A benefit corporation may terminate its status as a benefit corporation and cease to be subject to this chapter by amending its articles of incorporation and deleting the provision required by § 29-1301.05. To be effective, the amendment must be adopted by at least the minimum status vote.

(b) If a plan would have the effect of terminating the status of a business corporation as a benefit corporation, to be effective, the plan must be adopted by at least the minimum status vote. Any sale, lease, exchange, or other disposition of all or substantially all of the assets of a benefit corporation, unless the transaction is in the usual and regular course of business, shall not be effective unless the transaction is approved by at least the minimum status vote.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1301.02.

Legislative history of Law 19-305. — See note to § 29-1301.01.

Subchapter II. Corporate Purposes.

§ 29-1302.01. Corporate purposes.

(a) A benefit corporation shall have a purpose of creating general public benefit. This purpose is in addition to its purpose under § 29-303.01.

(b) The articles of incorporation of a benefit corporation may identify one or more specific public benefits that it is the purpose of the benefit corporation to create in addition to its purposes under § 29-303.01 and subsection (a) of this section. The identification of a specific public benefit under this subsection does not limit the obligation of a benefit corporation under subsection (a) of this section.

(c) The creation of general public benefit and specific public benefit under subsections (a) and (b) of this section is in the best interests of the benefit corporation.

(d) A benefit corporation may amend its articles of incorporation to add, amend, or delete the identification of a specific public benefit for that benefit corporation. To be effective, the amendment must be adopted by at least the minimum status vote.

(e) A professional corporation that is a benefit corporation does not violate § 29-505 by having its purpose be to create general public benefit or a specific public benefit.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Legislative history of Law 19-305. — See note to § 29-1301.01.

Subchapter III. Accountability.

§ 29-1303.01. Standard of conduct for directors.

(a) In discharging the duties of their respective positions and in considering the best interests of the benefit corporation, the board of directors, committees of the board, and individual directors of a benefit corporation:

(1) Shall consider the effects of any action upon:

(A) The shareholders of the benefit corporation;

(B) The employees and work force of the benefit corporation, its subsidiaries, and its suppliers;

(C) The interests of customers as beneficiaries of the general public benefit or specific public benefit purposes of the benefit corporation;

(D) Community and societal factors, including those of each community in which offices or facilities of the benefit corporation, its subsidiaries, or its suppliers are located;

(E) The local and global environment;

(F) The short-term and long-term interests of the benefit corporation, including benefits that may accrue to the benefit corporation from its long-term plans and the possibility that these interests may be best served by the continued independence of the benefit corporation; and

(G) The ability of the benefit corporation to accomplish its general public benefit purpose and any specific public benefit purpose;

(2) May consider other pertinent factors or the interests of any other group that they deem appropriate; and

(3) Need not give priority to the interests of a particular person or group referenced in paragraph (1) or (2) of this subsection over the interests of any other person or group, unless the benefit corporation has stated in its articles of incorporation its intention to give priority to certain interests related to its accomplishment of its general public benefit purpose or of a specific public benefit purpose identified in its articles of incorporation.

(b) The consideration of interests and factors in the manner required by subsection (a) of this section does not constitute a violation of § 29-306.30.

(c) A director is not personally liable for monetary damages for:

(1) Any action taken as a director if the director performed the duties of office in compliance with § 29-306.30 and this section; or

(2) Failure of the benefit corporation to create general public benefit or specific public benefit.

(d) A director does not have a duty to a person that is a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the status of the person as a beneficiary.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1301.02, § 29-1303.02, and § 29-1303.03.

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1303.02. Benefit director.

(a) The board of directors of a benefit corporation shall include one director, who:

(1) Shall be designated the benefit director; and

(2) Shall have, in addition to the powers, duties, rights, and immunities of the other directors of the benefit corporation, the powers, duties, rights, and immunities provided in this subchapter.

(b) The benefit director shall be elected, and may be removed, in the manner provided by subchapter VI of Chapter 3 of this title, and shall be an individual who is independent. The benefit director may serve as the benefit officer at the same time as serving as the benefit director. The articles of incorporation or bylaws of a benefit corporation may prescribe additional qualifications of the benefit director not inconsistent with this section.

(c) The benefit director shall prepare, and the benefit corporation shall include in the annual benefit report to shareholders required by § 29-1304.01, the opinion of the benefit director on each of the following:

(1) Whether the benefit corporation acted in accordance with its general public benefit purpose and any specific public benefit purpose in all material respects during the period covered by the report; and

(2) Whether the directors and officers complied with §§ 29-1303.01(a) and 29-1303.03(a), respectively.

(3) If, in the opinion of the benefit director, the benefit corporation or its directors or officers failed to comply with §§ 29-1303.01(a) and 29-1303.03(a), a description of the ways in which the benefit corporation or its directors or officers failed to comply.

(d) The acts of an individual in the capacity of a benefit director shall constitute for all purposes acts of that individual in the capacity of a director of the benefit corporation.

(e)(1) If an agreement among the shareholders of a benefit corporation under § 29-305.42 provides that the powers and duties conferred or imposed upon the board of directors shall be exercised or performed by a person other than the directors, the bylaws of a benefit corporation must provide that the persons or shareholders who perform the duties of the board of directors include a person with the powers, duties, rights, and immunities of a benefit director.

(2) A person that exercises one or more of the powers, duties or rights of a benefit director under this subsection:

(A) Does not need to be independent of the benefit corporation;

(B) Shall have the immunities of a benefit director;

(C) May share the powers, duties, and rights of a benefit director with one or more other persons; and

(D) Shall not be subject to the procedures for election or removal of directors in § 29-306 unless:

- (i) The person is also a director of the benefit corporation; or
- (ii) The bylaws make those procedures applicable.

(f) Regardless of whether the articles of incorporation of a benefit corporation include a provision eliminating or limiting the personal liability of directors authorized by § 29-302.02(b)(4), a benefit director shall not be personally liable for any action taken, or any failure to take any action, as a director, except liability for:

- (1) The amount of a financial benefit received by a director to which the director is not entitled;
- (2) An intentional infliction of harm on the corporation or the shareholders;
- (3) A violation of § 29-306.32; or
- (4) A violation of criminal law.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1301.02 and § 29-1304.01.

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1303.03. Standard of conduct for officers.

(a) Each officer of a benefit corporation shall consider the interests and factors described and in the manner provided in § 29-1303.01(a) if:

- (1) The officer has discretion to act with respect to a matter; and
- (2) It is reasonably apparent to the officer that the matter may have a material effect on the creation of general public benefit or a specific public benefit identified in the articles of incorporation of the benefit corporation.

(b) The consideration of interests and factors as provided by subsection (a) of this section shall not constitute a violation of § 29-306.42.

(c) An officer is not personally liable for monetary damages for:

- (1) Action taken as an officer if the officer performed the duties of the position in compliance with § 29-306.42 and this section; or
- (2) Failure of the benefit corporation to pursue or create general public benefit or specific public benefit.

(d) An officer does not have a duty to a beneficiary of the general public benefit purpose or a specific public benefit purpose of a benefit corporation arising from the beneficiary's status.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1303.02.

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1303.04. Benefit officer.

- (a) A benefit corporation may designate a benefit officer.
- (b) A benefit officer shall have:

(1) The powers and duties relating to the purpose of the corporation to create general public benefit or specific public benefit provided:

- (A) By the bylaws; or

(B) Absent controlling provisions in the bylaws, by resolutions or orders of the board of directors; and

(2) The duty to prepare the benefit report required by § 29-1304.01.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1301.02.

Legislative history of Law 19-305. — See note to § 29-1301.01.

§ 29-1303.05. Right of action.

(a) Except in a benefit enforcement proceeding, no person may bring an action or assert a claim against a benefit corporation or its directors or officers with respect to:

(1) Failure to pursue or create general public benefit or a specific public benefit set forth in its articles of incorporation; or

(2) Violation of a duty or standard of conduct under this chapter.

(b) A benefit corporation shall not be liable for monetary damages under this chapter for any failure of the benefit corporation to pursue or create general public benefit or a specific public benefit.

(c) A benefit enforcement proceeding may be commenced or maintained only:

(1) Directly by the benefit corporation; or

(2) Derivatively by:

(A) A shareholder;

(B) A director;

(C) A person or group of persons that owns beneficially or of record 5% or more of the equity interests in an entity of which the benefit corporation is a subsidiary; or

(D) Other persons as specified in the articles of incorporation or bylaws of the benefit corporation.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Legislative history of Law 19-305. — See note to § 29-1301.01.

Subchapter IV. Transparency.

§ 29-1304.01. Annual benefit report.

(a) A benefit corporation shall prepare an annual benefit report including all of the following:

(1) A narrative description of:

(A) The process and rationale for selecting the third-party standard used to prepare the benefit report;

(B) The ways in which the benefit corporation pursued general public benefit during the year and the extent to which general public benefit was created;

(C)(i) The ways in which the benefit corporation pursued a specific

public benefit that the articles of incorporation state it is the purpose of the benefit corporation to create; and

(ii) The extent to which that specific public benefit was created; and

(D) Any circumstances that have hindered the pursuit or creation of the general public benefit purpose and any specific public benefit purpose.

(2) An assessment of the overall social and environmental performance of the benefit corporation against a third-party standard:

(A) Applied consistently with the application of that standard in prior benefit reports; or

(B) If the third-party standard was not applied consistently, an explanation of the reasons for any inconsistent application.

(3) The name of the benefit director and the benefit officer, if any, and the address to which correspondence to each of them may be directed.

(4) The compensation paid by the benefit corporation during the year to each director in the capacity of a director.

(5) The name of each person that owns 5% or more of the outstanding shares of the benefit corporation either:

(A) Beneficially, to the extent known to the benefit corporation without independent investigation; or

(B) Of record.

(6) The statement of the benefit director described in § 29-1303.02(c).

(7) A statement of any connection between the organization that established the third-party standard, or its directors, officers, or material owners, and the benefit corporation or its directors, officers, or material shareholders, including any financial or governance relationship which might materially affect the credibility of the use of the third-party standard.

(8) If the benefit corporation has dispensed with or restricted the discretion or powers of the board of directors, a description of:

(A) The persons that exercise the powers, duties, and rights and have the immunities of the board of directors; and

(B) The person with the powers, duties, and rights of a benefit director if required by § 29-1303.02(e).

(b) A benefit corporation shall annually send a benefit report to each shareholder:

(1) Within 120 days following the end of the fiscal year of the benefit corporation; or

(2) At the same time that the benefit corporation delivers any other annual report to its shareholders.

(c) A benefit corporation shall post all of its benefit reports on the public portion of its website, if any, but the compensation paid to directors and financial or proprietary information included in the benefit reports may be omitted from the benefit reports as posted.

(d) If a benefit corporation does not have a website, the benefit corporation shall provide a copy of its most recent benefit report, without charge, to any person that requests a copy.

(e) The benefit corporation shall deliver a copy of the benefit report to the Mayor for filing when filing the biennial report required by § 29-102.11, but

the compensation paid to directors and financial or proprietary information included in the benefit report may be omitted from the copy of the benefit report that is delivered to the Mayor.

(May 1, 2013, D.C. Law 19-305, § 2(b), 60 DCR 2735.)

Section references. — This section is referenced in § 29-1303.02 and § 29-1303.04.

Legislative history of Law 19-305. — See note to § 29-1301.01.

TITLE 29A. CORPORATIONS. [REPEALED].

Chapter

1. Business Corporations (1954). [Repealed].
2. Business Corporations (1901). [Repealed].
3. Nonprofit Corporations. [Repealed].
4. Professional Corporations. [Repealed].
5. Foreign Trade Zones. [Transferred].
6. Institutions of Learning. [Repealed].
7. Religious Societies. [Repealed].
8. Charitable, Educational, and Religious Associations. [Repealed].
9. Cooperative Associations. [Repealed].
- 9A. Uniform Unincorporated Nonprofit Associations Act. [Repealed].
10. Limited Liability Companies. [Repealed].
11. Miscellaneous Provisions. [Repealed].

CHAPTER 1. BUSINESS CORPORATIONS (1954). [REPEALED].

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- 29A-101.01. Short title. [Repealed].
- 29A-101.02. Definitions. [Repealed].
- 29A-101.03. Authorized purposes for organization of corporation. [Repealed].
- 29A-101.04. General powers. [Repealed].
- 29A-101.05. Power of corporation to acquire its own shares. [Repealed].
- 29A-101.06. Dealing in real estate as corporate purpose. [Repealed].
- 29A-101.07. Defense of ultra vires. [Repealed].
- 29A-101.08. Corporate name. [Repealed].
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- 29A-101.10. Registered office and registered agent required. [Repealed].
- 29A-101.11. Registered office and registered agent required — Change. [Repealed].
- 29A-101.12. Registered agent as agent for service; service when no registered agent. [Repealed].
- 29A-101.13. Shares — Power to issue; classes; par value; limitations, restrictions, or qualifications; voting power; preferred or special classes. [Repealed].
- 29A-101.14. Shares — Issuance of preferred or special classes in series. [Repealed].
- 29A-101.15. Shares — Subscriptions; irrevocability; payment. [Repealed].
- 29A-101.16. Shares — Consideration for issuance. [Repealed].
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- 29A-101.18. Shares — Determination of amount of stated capital. [Repealed].
- 29A-101.19. Expenses of organization, reorganization, and financing. [Repealed].
- 29A-101.20. Stock certificates — Representation of shares; signers; restrictions or limitations on transferability and on issuance of shares of more than 1 class; contents. [Repealed].
- 29A-101.21. Stock certificates — Issuance of fractional shares or scrip. [Repealed].
- 29A-101.22. Liability of subscribers and shareholders. [Repealed].
- 29A-101.23. Limitation of shareholders' rights to acquire additional shares. [Repealed].
- 29A-101.24. Bylaws. [Repealed].
- 29A-101.25. Meetings of shareholders — Place; annual and special; right to vote. [Repealed].
- 29A-101.26. Meetings of shareholders — Notice. [Repealed].
- 29A-101.27. Voting of shares; exclusion of shares of corporation's own stock; determination of number of outstanding shares. [Repealed].
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- 29A-101.29. Voting of shares — By certain

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	holders; proxy presumed valid. [Repealed].		tance of subscriptions to shares. [Repealed].
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29A-101.31.	Voting of shares — Quorum of shareholders required. [Repealed].	29A-101.56.	Articles of amendment — Contents. [Repealed].
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29A-101.37.	Voting of shares — Executive committee; powers. [Repealed].	29A-101.61.	Reduction of stated capital — Procedure; effect of approval; filing. [Repealed].
29A-101.38.	Voting of shares — Place of meetings; special meetings; use of conference telephone. [Repealed].	29A-101.62.	Reduction of stated capital — Limitations; paid-in surplus. [Repealed].
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29A-101.41.	Dividends — Partial liquidation; restrictions on distribution of assets; vote required for approval. [Repealed].	29A-101.65.	Procedure for consolidation. [Repealed].
29A-101.42.	Liability of directors in certain cases. [Repealed].	29A-101.66.	Merger or consolidation — Submission of plan to shareholders; meeting; notice. [Repealed].
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29A-101.47.	Articles of incorporation — Contents. [Repealed].	29A-101.71.	Merger or consolidation — Domestic and foreign corporations; filing. [Repealed].
29A-101.48.	Articles of incorporation — Procedure for filing. [Repealed].	29A-101.72.	Merger or consolidation — Parent corporation and wholly owned subsidiary; effect of certificate of merger. [Repealed].
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| <p>Sec.</p> <p>29A-101.72c. Merger or consolidation — domestic corporation and partnership. [Repealed].</p> <p>29A-101.73. Merger or consolidation — Rights of dissenting shareholders. [Repealed].</p> <p>29A-101.74. Sale, lease, exchange, or mortgage of assets in usual and regular course of business. [Repealed].</p> <p>29A-101.75. Sale, lease, exchange, or mortgage of assets other than in usual and regular course of business. [Repealed].</p> <p>29A-101.76. Dissolution of corporation — By voluntary act of incorporators; procedure for filing of articles of dissolution. [Repealed].</p> <p>29A-101.77. Dissolution of corporation — By written consent of shareholders. [Repealed].</p> <p>29A-101.78. Dissolution of corporation — By act of corporation; procedure; vote required for approval. [Repealed].</p> <p>29A-101.79. Dissolution of corporation — Procedure for filing of statement of intent to dissolve. [Repealed].</p> <p>29A-101.80. Dissolution of corporation — Effect of statement of intent to dissolve. [Repealed].</p> <p>29A-101.81. Dissolution of corporation — Liquidation of business and affairs. [Repealed].</p> <p>29A-101.82. Voluntary dissolution proceedings — Revocation by shareholders' written consent. [Repealed].</p> <p>29A-101.83. Voluntary dissolution proceedings — Revocation by act of corporation. [Repealed].</p> <p>29A-101.84. Voluntary dissolution proceedings — Filing of statement of revocation. [Repealed].</p> <p>29A-101.85. Voluntary dissolution proceedings — Effect of statement of revocation. [Repealed].</p> <p>29A-101.86. Articles of dissolution. [Repealed].</p> <p>29A-101.87. Filing of articles of dissolution; effect of certificate of dissolution. [Repealed].</p> <p>29A-101.88. Involuntary dissolution. [Repealed].</p> <p>29A-101.89. Commencement of action for involuntary dissolution; summons; notice. [Repealed].</p> <p>29A-101.90. Liquidation proceedings — Jurisdiction of court. [Repealed].</p> <p>29A-101.91. Liquidation proceedings — Procedure by court; authority of receivers; distribution of assets. [Repealed].</p> <p>29A-101.92. Liquidation proceedings — Qualifications of receivers. [Repealed].</p> | <p>Sec.</p> <p>29A-101.93. Liquidation proceedings — Filing of claims. [Repealed].</p> <p>29A-101.94. Liquidation proceedings — Discontinuance. [Repealed].</p> <p>29A-101.95. Liquidation proceedings — Decree of involuntary dissolution. [Repealed].</p> <p>29A-101.96. Liquidation proceedings — Filing of decree of dissolution. [Repealed].</p> <p>29A-101.97. Survival of remedy after dissolution. [Repealed].</p> <p>29A-101.98. Report of domestic corporation. [Repealed].</p> <p>29A-101.99. Foreign corporations — Admission to transact business; procurement of certificate of authority limited in certain cases; service of process; rules and regulations. [Repealed].</p> <p>29A-101.100. Foreign corporations — Powers, rights, privileges, duties and liabilities. [Repealed].</p> <p>29A-101.101. Foreign corporations — Corporate name. [Repealed].</p> <p>29A-101.102. Foreign corporations — Change of corporate name. [Repealed].</p> <p>29A-101.103. Foreign corporations — Application for certificate of authority; contents. [Repealed].</p> <p>29A-101.104. Foreign corporations — Filing of certificate of authority. [Repealed].</p> <p>29A-101.105. Foreign corporations — Effect of certificate of authority. [Repealed].</p> <p>29A-101.106. Foreign corporations — Registered office and registered agent. [Repealed].</p> <p>29A-101.107. Foreign corporations — Change of registered office or registered agent. [Repealed].</p> <p>29A-101.108. Foreign corporations — Service of process; Mayor as agent. [Repealed].</p> <p>29A-101.109. [Repealed].</p> <p>29A-101.110. Foreign corporations — Merger; filing of articles of merger; name change requires new or amended certificate of authority. [Repealed].</p> <p>29A-101.111. Foreign corporations — Amended certificate of authority. [Repealed].</p> <p>29A-101.112. Foreign corporations — Annual report; contents. [Repealed].</p> <p>29A-101.113. Foreign corporations — Withdrawal from doing business in District. [Repealed].</p> <p>29A-101.114. Filing of application for withdrawal; effect of certificate of withdrawal. [Repealed].</p> |
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- 29A-101.115. Revocation of certificate of authority. [Repealed].
- 29A-101.116. Procedure for issuance of certificate of revocation. [Repealed].
- 29A-101.117. Effect of revocation or withdrawal upon actions and contracts. [Repealed].
- 29A-101.118. Application of chapter to foreign corporations transacting business on chapter's effective date. [Repealed].
- 29A-101.119. Transacting business without certificate of authority; validity of contracts or corporate acts not impaired; liabilities. [Repealed].
- 29A-101.120. Mayor; duties and functions. [Repealed].
- 29A-101.121. Fees and charges. [Repealed].
- 29A-101.122. Effect of failure to pay 2-year report fee or to file annual report. [Repealed].
- 29A-101.123. Proclamation of revocation; effect of publication; extension of term of existence. [Repealed].
- 29A-101.124. Carrying on business after issuance of proclamation. [Repealed].
- 29A-101.125. Correction of error in proclamation. [Repealed].
- 29A-101.126. Proclaimed corporations — Reservation of name. [Repealed].
- 29A-101.127. Proclaimed corporations — Procedure for reinstatement. [Repealed].
- 29A-101.128. Penalties — Failure to file 2-year report on time. [Repealed].
- 29A-101.129. Penalties — Failure to maintain registered office or registered agent. [Repealed].
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- 29A-101.132. Rights and immunities of witnesses. [Repealed].
- 29A-101.133. Monopolies and restraint of trade. [Repealed].
- 29A-101.134. Waiver of notice. [Repealed].
- 29A-101.135. Voting requirements of articles of incorporation. [Repealed].
- 29A-101.136. Requirements of action without meeting. [Repealed].
- 29A-101.137. Procedures for appeal. [Repealed].
- 29A-101.138. Certificates and certified copies of certain documents to be received in evidence. [Repealed].
- 29A-101.139. Unauthorized assumption of corporate powers. [Repealed].
- 29A-101.140. Forms to be furnished by Mayor. [Repealed].

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- 29A-101.141. Reincorporation or incorporation of existing corporations. [Repealed].
- 29A-101.142. Effect of issuance of certificate of reincorporation or incorporation. [Repealed].
- 29A-101.143. Duties of Recorder of Deeds transferred to Mayor. [Repealed].
- 29A-101.144. Severability of provisions. [Repealed].
- 29A-101.145. Reservation of right to alter, amend or repeal. [Repealed].
- 29A-101.146. Effective date. [Repealed].
- 29A-101.147. Appropriation of funds. [Repealed].
- 29A-101.148. Use of certified mail. [Repealed].
- 29A-101.149. Civil actions and prosecutions. [Repealed].
- 29A-101.150. Omitted. [Repealed].
- 29A-101.151. Verification no longer required; penalty for misstatement of fact. [Repealed].
- 29A-101.152. Exemption of government agencies from fees levied for Mayor as registered agent. [Repealed].
- 29A-101.153. Domestication. [Repealed].
- 29A-101.154. Effect of domestication. [Repealed].
- 29A-101.155. Close corporations — Law applicable to close corporations. [Repealed].
- 29A-101.156. Close corporations — Close corporation defined; contents of articles of incorporation. [Repealed].
- 29A-101.157. Close corporations — Formation of a close corporation. [Repealed].
- 29A-101.158. Close corporations — Election of existing corporation to become a close corporation. [Repealed].
- 29A-101.159. Close corporations — Limitations on continuation of close corporation status. [Repealed].
- 29A-101.160. Close corporations — Voluntary termination of close corporation status by amendment of articles of incorporation; vote required. [Repealed].
- 29A-101.161. Close corporations — Issuance or transfer of stock of a close corporation in breach of qualifying conditions. [Repealed].
- 29A-101.162. Close corporations — Involuntary termination of close corporation status; proceeding to prevent loss of status. [Repealed].
- 29A-101.163. Close corporations — Corporation option where a restriction on transfer of a security is held invalid. [Repealed].
- 29A-101.164. Close corporations — Agreements restricting discretion of directors. [Repealed].

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29A-101.165. Close corporations — Management by shareholders. [Repealed].

29A-101.166. Close corporations — Appointment of custodian for close corporation. [Repealed].

29A-101.167. Close corporations — Appointment of a provisional director in certain cases. [Repealed].

29A-101.168. Close corporations — Operating

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corporation as partnership. [Repealed].

29A-101.169. Close corporations — Shareholders' option to dissolve corporation. [Repealed].

29A-101.170. Close corporations — Effect of close corporation provisions on other laws. [Repealed].

§ 29A-101.01. Short title. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 179, ch. 269, § 1; Sept. 10, 1992, D.C. Law 9-144, § 4(a), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.01.

1981 Ed., § 29-301.

1973 Ed., § 29-901.

Emergency legislation. — For temporary amendment of section, see § 2 of the Cooperative Association Second Emergency Amendment Act of 1997 (D.C. Act 12-203, December 2, 1997, 44 DCR 7498).

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — Law 18-378, the “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009”, was introduced in Council and assigned Bill No. 18-500, which was referred to

the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

Editor’s notes. — Applicability date of D.C. Law 18-378: Section 5 of D.C. Law 18-378, as amended by section 7082 of D.C. Law 19-21 provided:

“Sec. 5. Applicability. This act shall apply as of January 1, 2012.”

Note Regarding Enactment of Title 29. — D.C. Law 18-378 amended and enacted into law Title 29 of the District of Columbia.

§ 29A-101.02. Definitions. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 179, ch. 269, § 2; Aug. 3, 1954, 68 Stat. 651, ch. 653, § 5; July 29, 1970, 84 Stat. 588, Pub. L. 91-358, title I, § 168(c)(1); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.02.

1981 Ed., § 29-302.

1973 Ed., § 29-902.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 29A-101.03. Authorized purposes for organization of corporation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 180, ch. 269, § 3; Sept. 3, 1963, 77 Stat. 137, Pub. L. 88-111, § 1(5); Oct. 13, 1978, D.C. Law 2-117, § 2, 25 DCR 1509; July 2, 2011, D.C. Law 18-378 § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.03.

1981 Ed., § 29-303.

1973 Ed., § 29-903.

Legislative history of Law 2-117. — Law 2-117, the “District of Columbia Business Corporation Act of 1978,” was introduced in Council and assigned Bill No. 2-216, which was referred to the Committee on Public Services

and Consumer Affairs. The Bill was adopted on first and second readings on June 27, 1978 and July 11, 1978, respectively. Signed by the Mayor on August 1, 1978, it was assigned Act No. 2-247 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.04. General powers. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 180, ch. 269, § 4; Sept. 3, 1963, 77 Stat. 136, Pub. L. 88-111, § 1(1); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.04.

1981 Ed., § 29-304.

1973 Ed., § 29-904.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.05. Power of corporation to acquire its own shares. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 181, ch. 269, § 5; Apr. 9, 1997, D.C. Law 11-255, § 28(a), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.05.

1981 Ed., § 29-305.

1973 Ed., § 29-904a.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was

adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.06. Dealing in real estate as corporate purpose. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 182, ch. 269, § 6; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.06.
 1981 Ed., § 29-306.
 1973 Ed., § 29-904b.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.07. Defense of ultra vires. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 182, ch. 269, § 7; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 1; Apr. 9, 1997, D.C. Law 11-255, § 28(b), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.07.
 1981 Ed., § 29-307.
 1973 Ed., § 29-905.

torical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see His-

§ 29A-101.08. Corporate name. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 183, ch. 269, § 8; Apr. 9, 1997, D.C. Law 11-255, § 28(c), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.08.
 1981 Ed., § 29-308.
 1973 Ed., § 29-906.

torical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see His-

§ 29A-101.09. Reserved name. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 183, ch. 269, § 9; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 2; Apr. 9, 1997, D.C. Law 11-255, § 28(d), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.09.
 1981 Ed., § 29-309.
 1973 Ed., § 29-906a.

torical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see His-

§ 29A-101.10. Registered office and registered agent required. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 183, ch. 269, § 10; Sept. 10, 1992, D.C. Law 9-144,

§ 4(b), 39 DCR 4863; Apr. 9, 1997, D.C. Law 11-255, § 28(e), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.10.

1981 Ed., § 29-310.

1973 Ed., § 29-907.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.11. Registered office and registered agent required — Change. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 184, ch. 269, § 11; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 3; July 23, 1959, 73 Stat. 239, Pub. L. 86-106, § 1; Sept. 3, 1963, 77 Stat. 136, Pub. L. 88-111, § 1(2); Sept. 10, 1992, D.C. Law 9-144, § 4(c)-(f), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.11.

1981 Ed., § 29-311.

1973 Ed., § 29-907a.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.12. Registered agent as agent for service; service when no registered agent. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 184, ch. 269, § 12; Sept. 3, 1963, 77 Stat. 137, Pub. L. 88-111, § 1(3); Mar. 14, 1984, D.C. Law 5-64, § 2(a), 31 DCR 195; Sept. 10, 1992, D.C. Law 9-144, § 4(g), 39 DCR 4863; June 5, 2003, D.C. Law 14-307, § 1603(a), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.12.

1981 Ed., § 29-312.

1973 Ed., § 29-907b.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1603(a) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1603(a) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1603(a) of Fiscal Year 2003 Budget Support Amendment Second Congressional Re-

view Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 5-64. — For legislative history of D.C. Law 5-64, see Historical and Statutory Notes following § 29A-101.152.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 14-307. — Law 14-307, the “Fiscal Year 2003 Budget Support Amendment Act of 2002”, was introduced in Council and assigned Bill No. 14-892, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on October 1, 2002, and November 7, 2002,

respectively. Signed by the Mayor on December 4, 2002, it was assigned Act No. 14-543 and transmitted to both Houses of Congress for its review. D.C. Law 14-307 became effective on June 5, 2003.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.13. Shares — Power to issue; classes; par value; limitations, restrictions, or qualifications; voting power; preferred or special classes. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 185, ch. 269, § 13; Apr. 9, 1997, D.C. Law 11-255, § 28(f), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.13.

1981 Ed., § 29-313.

1973 Ed., § 29-908.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see His-

torical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.14. Shares — Issuance of preferred or special classes in series. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 185, ch. 269, § 14; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 4; July 23, 1959, 73 Stat. 240, Pub. L. 86-106, § 2; Sept. 10, 1992, D.C. Law 9-144, § 4(h), 39 DCR 4863; Apr. 9, 1997, D.C. Law 11-255, § 28(g), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.14.

1981 Ed., § 29-314.

1973 Ed., § 29-908a.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.15. Shares — Subscriptions; irrevocability; payment. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 186, ch. 269, § 15; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.15.

1981 Ed., § 29-315.

1973 Ed., § 29-908b.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.16. Shares — Consideration for issuance. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 187, ch. 269, § 16; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.16.
1981 Ed., § 29-316.
1973 Ed., § 29-908c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.17. Shares — Payment; promissory notes and future services excluded. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 187, ch. 269, § 17; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.17.
1981 Ed., § 29-317.
1973 Ed., § 29-908d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.18. Shares — Determination of amount of stated capital. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 188, ch. 269, § 18; Apr. 9, 1997, D.C. Law 11-255, § 28(h), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.18.
1981 Ed., § 29-318.
1973 Ed., § 29-908e.

torical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see His-

§ 29A-101.19. Expenses of organization, reorganization, and financing. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 188, ch. 269, § 19; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.19.
1981 Ed., § 29-319.
1973 Ed., § 29-908f.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.20. Stock certificates — Representation of shares; signers; restrictions or limitations on transferability and on issuance of shares of more than 1 class; contents. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 189, ch. 269, § 20; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 5; July 23, 1959, 73 Stat. 240, Pub. L. 86-106, § 3; Dec. 30, 1963, 77 Stat. 770, Pub. L. 88-234, § 4; Sept. 10, 1992, D.C. Law 9-144, § 4(i)-(k), 39 DCR 4863; Apr. 9, 1997, D.C. Law 11-255, § 28(i), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.20.

1981 Ed., § 29-320.

1973 Ed., § 29-908g.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.21. Stock certificates — Issuance of fractional shares or scrip. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 189, ch. 269, § 21; Sept. 10, 1992, D.C. Law 9-144, § 4(l), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.21.

1981 Ed., § 29-321.

1973 Ed., § 29-908h.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.22. Liability of subscribers and shareholders. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 190, ch. 269, § 22; July 23, 1959, 73 Stat. 240, Pub. L. 86-106, § 4; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.22.

1981 Ed., § 29-322.

1973 Ed., § 29-908i.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.23. Limitation of shareholders' rights to acquire additional shares. [Repealed].

Repealed.

§ 29A-101.24

CORPORATIONS. [REPEALED]

(June 8, 1954, 68 Stat. 190, ch. 269, § 23; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.23.
1981 Ed., § 29-323.
1973 Ed., § 29-908j.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.24. Bylaws. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 190, ch. 269, § 24; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.23.
1981 Ed., § 29-324.
1973 Ed., § 29-909.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.25. Meetings of shareholders — Place; annual and special; right to vote. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 190, ch. 269, § 25; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.25.
1981 Ed., § 29-325.
1973 Ed., § 29-910.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.26. Meetings of shareholders — Notice. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 190, ch. 269, § 26; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 6; July 23, 1959, 73 Stat. 240, Pub. L. 86-106, § 5; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.26.
1981 Ed., § 29-326.
1973 Ed., § 29-910a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.27. Voting of shares; exclusion of shares of corporation's own stock; determination of number of outstanding shares. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 191, ch. 269, § 27; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.27.
 1981 Ed., § 29-327.
 1973 Ed., § 29-911.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.28. Voting of shares — Determination of shareholders entitled to notice of or to vote at meeting; closing of transfer books and fixing record date. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 191, ch. 269, § 28; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.28.
 1981 Ed., § 29-328.
 1973 Ed., § 29-912.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.29. Voting of shares — By certain holders; proxy presumed valid. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 192, ch. 269, § 29; July 23, 1959, 73 Stat. 240, Pub. L. 86-106, § 6; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.29.
 1981 Ed., § 29-329.
 1973 Ed., § 29-913.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.30. Voting of shares — Voting trust; certificates. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 192, ch. 269, § 30; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.30.
 1981 Ed., § 29-330.
 1973 Ed., § 29-914.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.31. Voting of shares — Quorum of shareholders required. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 191, ch. 269, § 31; July 23, 1959, 73 Stat. 241, Pub. L. 86-106, § 7; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

§ 29A-101.32

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-101.31.
1981 Ed., § 29-331.
1973 Ed., § 29-915.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.32. Voting of shares — Board of directors; qualifications. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 193, ch. 269, § 32; Sept. 3, 1963, 77 Stat. 137, Pub. L. 88-111, § 1(4); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.32.
1981 Ed., § 29-332.
1973 Ed., § 29-916.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.33. Voting of shares — Number; election. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 193, ch. 269, § 33; Sept. 10, 1992, D.C. Law 9-144, § 4(m), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.33.
1981 Ed., § 29-333.
1973 Ed., § 29-916a.

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

§ 29A-101.34. Voting of shares — Classification. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 193, ch. 269, § 34; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.34.
1981 Ed., § 29-334.
1973 Ed., § 29-916b.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.35. Voting of shares — Vacancies. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 193, ch. 269, § 35; July 23, 1959, 73 Stat. 241, Pub. L. 86-106, § 8; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.35.

1981 Ed., § 29-335.
1973 Ed., § 29-916c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.36. Voting of shares — Quorum. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 193, ch. 269, § 36; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.36.

1981 Ed., § 29-336.

1973 Ed., § 29-916d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.37. Voting of shares — Executive committee; powers. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 194, ch. 269, § 37; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.37.

1981 Ed., § 29-337.

1973 Ed., § 29-916e.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.38. Voting of shares — Place of meetings; special meetings; use of conference telephone. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 174, ch. 269, § 38; Aug. 1, 1981, D.C. Law 4-24, § 3, 28 DCR 2618; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.38.

1981 Ed., § 29-338.

1973 Ed., § 29-916f.

Legislative history of Law 4-24. — Law 4-24, the “District of Columbia Nonprofit Corporation Act and Business Corporation Act Amendments Act of 1981,” was introduced in Council and assigned Bill No. 4-60, which was

referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1981, and May 19, 1981, respectively. Signed by the Mayor on June 5, 1981, it was assigned Act No. 4-45 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.39. Voting of shares — Notice of meetings; waiver of notice. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 194, ch. 269, § 39; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 7; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

§ 29A-101.40

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-101.39.
1981 Ed., § 29-339.
1973 Ed., § 29-916g.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.40. Dividends — Declaration of and payment on outstanding shares; restrictions on payment of dividends. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 194, ch. 269, § 40; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.40.
1981 Ed., § 29-340.
1973 Ed., § 29-917.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.41. Dividends — Partial liquidation; restrictions on distribution of assets; vote required for approval. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 195, ch. 269, § 41; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.41.
1981 Ed., § 29-341.
1973 Ed., § 29-917a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.42. Liability of directors in certain cases. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 196, ch. 269, § 42; July 23, 1959, 73 Stat. 241, Pub. L. 86-106, § 9; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.42.
1981 Ed., § 29-342.
1973 Ed., § 29-918.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.43. Officers — Powers authorized. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 197, ch. 269, § 43; Sept. 10, 1992, D.C. Law 9-144, § 4(n), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.43.

1981 Ed., § 29-343.
1973 Ed., § 29-919.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.44. Officers — Removal. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 197, ch. 269, § 44; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.44.
1981 Ed., § 29-344.
1973 Ed., § 29-919a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.45. Books and records; requirements for right to examine and make extracts therefrom; liability for refusal of right. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 197, ch. 269, § 45; July 23, 1959, 73 Stat. 241, Pub. L. 86-106, § 10; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.45.
1981 Ed., § 29-345.
1973 Ed., § 29-920.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.46. Incorporators. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 198, ch. 269, § 46; Mar. 16, 1978, D.C. Law 2-61, § 2, 24 DCR 6011; Sept. 10, 1992, D.C. Law 9-144, § 4(o), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.46.
1981 Ed., § 29-346.
1973 Ed., § 29-921.

Legislative history of Law 2-61. — Law 2-61, "An Amendment to the District of Columbia Age of Majority Act," was introduced in Council and assigned Bill No. 2-165, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on September 13,

1977 and October 11, 1977, respectively. Signed by the Mayor on January 11, 1978, it was assigned Act No. 2-131 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.47. Articles of incorporation — Contents. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 198, ch. 269, § 47; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.47.
1981 Ed., § 29-347.
1973 Ed., § 29-921a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.48. Articles of incorporation — Procedure for filing. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 199, ch. 269, § 48; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 8; Apr. 9, 1997, D.C. Law 11-255, § 28(j), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.48.
1981 Ed., § 29-348.
1973 Ed., § 29-921b.

torical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see His-

§ 29A-101.49. Effect of issuance of certificate of incorporation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 199, ch. 269, § 49; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.49.
1981 Ed., § 29-349.
1973 Ed., § 29-921c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.50. Commencement of corporate business restricted. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 199, ch. 269, § 50; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.50.
1981 Ed., § 29-350.
1973 Ed., § 29-921d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.51. Organization meeting of directors. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 199, ch. 269, § 51; Sept. 10, 1992, D.C. Law 9-144, § 4(p), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.51.

1981 Ed., § 29-351.

1973 Ed., § 29-921e.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.52. Amendment of articles of incorporation — Contents restricted; purposes. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 200, ch. 269, § 52; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 9; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.52.

1981 Ed., § 29-352.

1973 Ed., § 29-921f.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.53. Amendment of articles of incorporation — Procedure before acceptance of subscriptions to shares. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 201, ch. 269, § 53; Sept. 2, 1957, 71 Stat. 569, Pub. L. 85-254, § 10; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.53.

1981 Ed., § 29-353.

1973 Ed., § 29-921g.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.54. Amendment of articles of incorporation — Procedure after acceptance of subscriptions to shares. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 201, ch. 269, § 54; Sept. 10, 1992, D.C. Law 9-144, § 4(q), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.54.

1981 Ed., § 29-354.

1973 Ed., § 29-921h.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.55. Amendment of articles of incorporation — Voting by classes. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 202, ch. 269, § 55; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.55.
1981 Ed., § 29-355.
1973 Ed., § 29-922.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.56. Articles of amendment — Contents. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 202, ch. 269, § 56; Sept. 10, 1992, D.C. Law 9-144, § 4(r), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.56.
1981 Ed., § 29-356.
1973 Ed., § 29-923.

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

§ 29A-101.57. Articles of amendment — Procedure for filing. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 203, ch. 269, § 57; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 11; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 172.)

Prior Codifications. — 2001 Ed., § 29-101.57.
1981 Ed., § 29-357.
1973 Ed., § 29-923a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.58. Effect of certificate of amendment. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 203, ch. 269, § 58; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.58.
1981 Ed., § 29-358.
1973 Ed., § 29-923b.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.58a. Restated articles of incorporation. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 58a, as added Sept. 10, 1992, D.C. Law 9-144, § 4(s), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.58a.

1981 Ed., § 29-358.1.

Legislative history of Law 9-144. — Law 9-144, the “District of Columbia Corporation Law Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-64, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted

on first and second readings on May 6, 1992, and June 2, 1992, respectively. Signed by the Mayor on June 19, 1992, it was assigned Act No. 9-224 and transmitted to both Houses of Congress for its review. D.C. Law 9-144 became effective on September 10, 1992.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.59. Redemption and cancellation of shares. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 203, ch. 269, § 59; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 12; Sept. 10, 1992, D.C. Law 9-144, § 4(t), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.59.

1981 Ed., § 29-359.

1973 Ed., § 29-924.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.60. Cancellation of reacquired shares. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 204, ch. 269, § 60; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 13; Sept. 10, 1992, D.C. Law 9-144, § 4(u), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.60.

1981 Ed., § 29-360.

1973 Ed., § 29-924b.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.61. Reduction of stated capital — Procedure; effect of approval; filing. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 205, ch. 269, § 61; Sept. 2, 1957, 71 Stat. 570, Pub. L.

85-254, § 14; Sept. 10, 1992, D.C. Law 9-144, § 4(v), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.61.

1981 Ed., § 29-361.

1973 Ed., § 29-925.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.62. Reduction of stated capital — Limitations; paid-in surplus. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 206, ch. 269, § 62; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.62.

1981 Ed., § 29-362.

1973 Ed., § 29-925a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.63. Reduction of paid-in surplus. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 206, ch. 269, § 63; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.63.

1981 Ed., § 29-363.

1973 Ed., § 29-926.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.64. Procedure for merger. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 206, ch. 269, § 64; Oct. 13, 1978, D.C. Law 2-117, § 2, 25 DCR 1509; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.64.

1981 Ed., § 29-364.

1973 Ed., § 29-927.

Legislative history of Law 2-117. — For legislative history of D.C. Law 2-117, see His-

torical and Statutory Notes following § 29A-101.03.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.65. Procedure for consolidation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 207, ch. 269, § 65; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.65.
 1981 Ed., § 29-365.
 1973 Ed., § 29-927a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.66. Merger or consolidation — Submission of plan to shareholders; meeting; notice. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 207, ch. 269, § 66; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.66.
 1981 Ed., § 29-366.
 1973 Ed., § 29-927b.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.67. Merger or consolidation — Vote required for approval by shareholders. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 207, ch. 267, § 67; Sept. 10, 1992, D.C. Law 9-144, § 4(w), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.67.
 1981 Ed., § 29-367.
 1973 Ed., § 29-927c.

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

§ 29A-101.68. Articles of merger or consolidation; contents; procedure for filing. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 207, ch. 269, § 68; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 15; Sept. 10, 1992, D.C. Law 9-144, § 4(x), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.68.
 1981 Ed., § 29-368.
 1973 Ed., § 29-927d.

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

§ 29A-101.69. Merger or consolidation — Effective date. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 208, ch. 269, § 69; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.69.
1981 Ed., § 29-369.
1973 Ed., § 29-927e.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.70. Merger or consolidation — Emergence of surviving or new corporation; cessation of separate existence of corporate parties; rights, privileges, immunities, powers and liabilities; aggregate amount of net assets for payment of dividends. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 208, ch. 269, § 70; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.70.
1981 Ed., § 29-370.
1973 Ed., § 29-927f.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.71. Merger or consolidation — Domestic and foreign corporations; filing. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 209, ch. 269, § 71; Sept. 3, 1963, 77 Stat. 137, Pub. L. 88-111, § 1(6); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.71.
1981 Ed., § 29-371.
1973 Ed., § 29-927g.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.72. Merger or consolidation — Parent corporation and wholly owned subsidiary; effect of certificate of merger. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 210, ch. 269, § 72; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 16; Sept. 10, 1992, D.C. Law 9-144, § 4(y), 39 DCR 4863; Apr. 9, 1997, D.C. Law 11-255, § 28(k), 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.72.
1981 Ed., § 29-372.
1973 Ed., § 29-927h.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 11-255. — For legislative history of D.C. Law 11-255, see Historical and Statutory Notes following § 29A-101.05.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.72a. Merger or consolidation — Domestic corporation and limited partnership. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 72a, as added Sept. 10, 1992, D.C. Law 9-144, § 4(z), 39 DCR 4863; Sept. 8, 1995, D.C. Law 11-38, § 4(a), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.72a.

1981 Ed., § 29-372.1.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 11-38. — Law 11-38, the “Limited Liability Company Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-75, which was referred

to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 2, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-71 and transmitted to both Houses of Congress for its review. D.C. Law 11-38 became effective on September 8, 1995.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.72b. Merger or consolidation — Domestic corporation and limited liability company. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 179, ch. 269, § 72b, as added July 23, 1994, D.C. Law 10-138, § 77, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.72b.

1981 Ed., § 29-372.2.

Legislative history of Law 10-138. — Law 10-138, the “Limited Liability Company Act of 1994,” was introduced in Council and assigned Bill No. 10-277, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second

readings on April 12, 1994, and May 3, 1994, respectively. Signed by the Mayor on May 18, 1994, it was assigned Act No. 10-243 and transmitted to both Houses of Congress for its review. D.C. Law 10-138 became effective on July 23, 1994.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.72c. Merger or consolidation — domestic corporation and partnership. [Repealed].

Repealed.

(Sept. 10, 1992, D.C. Law 9-144, § 72c, 39 DCR 4863, as added Apr. 9, 1997, D.C. Law 11-234, § 1206, 44 DCR 777; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

§ 29A-101.73

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-101.72c.

1981 Ed., § 29-372.3.

Legislative history of Law 11-234. — Law 11-234, the “Uniform Partnership Act of 1996,” was introduced in Council and assigned Bill No. 11-344, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings

on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-494 and transmitted to both Houses of Congress for its review. D.C. Law 11-234 became effective on April 9, 1997.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.73. Merger or consolidation — Rights of dissenting shareholders. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 210, ch. 269, § 73; Sept. 10, 1992, D.C. Law 9-144, § 4(aa), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.73.

1981 Ed., § 29-373.

1973 Ed., § 29-927i.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.74. Sale, lease, exchange, or mortgage of assets in usual and regular course of business. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 211, ch. 269, § 74; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 17; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.74.

1981 Ed., § 29-374.

1973 Ed., § 29-928.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.75. Sale, lease, exchange, or mortgage of assets other than in usual and regular course of business. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 211, ch. 269, § 75; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 18; Sept. 10, 1992, D.C. Law 9-144, § 4(bb), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.75.

1981 Ed., § 29-375.

1973 Ed., § 29-929.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.76. Dissolution of corporation — By voluntary act of incorporators; procedure for filing of articles of dissolution. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 212, ch. 269, § 76; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 19; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.76.
1981 Ed., § 29-376.
1973 Ed., § 29-930.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.77. Dissolution of corporation — By written consent of shareholders. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 213, ch. 269, § 77; Sept. 10, 1992, D.C. Law 9-144, § 4(cc), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.77.
1981 Ed., § 29-377.
1973 Ed., § 29-930a.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.78. Dissolution of corporation — By act of corporation; procedure; vote required for approval. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 213, ch. 269, § 78; Sept. 10, 1992, D.C. Law 9-144, § 4(dd), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.78.
1981 Ed., § 29-378.
1973 Ed., § 29-930b.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.79. Dissolution of corporation — Procedure for filing of statement of intent to dissolve. [Repealed].

Repealed.

§ 29A-101.80

CORPORATIONS. [REPEALED]

(June 8, 1954, 68 Stat. 213, ch. 269, § 79; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 20; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.79.

1981 Ed., § 29-379.

1973 Ed., § 29-930c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.80. Dissolution of corporation — Effect of statement of intent to dissolve. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 214, ch. 269, § 80; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.80.

1981 Ed., § 29-380.

1973 Ed., § 29-930d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.81. Dissolution of corporation — Liquidation of business and affairs. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 214, ch. 269, § 81; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(c)(2); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.81.

1981 Ed., § 29-381.

1973 Ed., § 29-930e.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.82. Voluntary dissolution proceedings — Revocation by shareholders' written consent. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 214, ch. 269, § 82; Sept. 10, 1992, D.C. Law 9-144, § 4(ee), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.81.

1981 Ed., § 29-382.

1973 Ed., § 29-930f.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.83. Voluntary dissolution proceedings — Revocation by act of corporation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 215, ch. 269, § 83; Sept. 10, 1992, D.C. Law 9-144, § 4(ff), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.83.

1981 Ed., § 29-383.

1973 Ed., § 29-930g.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.84. Voluntary dissolution proceedings — Filing of statement of revocation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 215, ch. 269, § 84; Sept. 2, 1957, 71 Stat. 570, Pub. L. 85-254, § 21; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.84.

1981 Ed., § 29-384.

1973 Ed., § 29-930h.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.85. Voluntary dissolution proceedings — Effect of statement of revocation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 215, ch. 269, § 85; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.85.

1981 Ed., § 29-385.

1973 Ed., § 29-930i.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.86. Articles of dissolution. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 216, ch. 269, § 86; Sept. 10, 1992, D.C. Law 9-144, § 4(gg), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.86.

1981 Ed., § 29-386.

1973 Ed., § 29-930j.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.87. Filing of articles of dissolution; effect of certificate of dissolution. [Repealed].

Repealed.

§ 29A-101.88

CORPORATIONS. [REPEALED]

(June 8, 1954, 68 Stat. 216, ch. 269, § 87; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 22; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.87.
1981 Ed., § 29-387.
1973 Ed., § 29-930k.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.88. Involuntary dissolution. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 216, ch. 269, § 88; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.88.
1981 Ed., § 29-388.
1973 Ed., § 29-931.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.89. Commencement of action for involuntary dissolution; summons; notice. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 217, ch. 269, § 89; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(c)(2); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.89.
1981 Ed., § 29-389.
1973 Ed., § 29-931a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.90. Liquidation proceedings — Jurisdiction of court. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 217, ch. 269, § 90; July 23, 1959, 73 Stat. 241, Pub. L. 86-106, § 11; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(c)(2); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.90.
1981 Ed., § 29-390.
1973 Ed., § 29-931b.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.91. Liquidation proceedings — Procedure by court; authority of receivers; distribution of assets. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 217, ch. 269, § 91; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.91.
 1981 Ed., § 29-391.
 1973 Ed., § 29-931c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.92. Liquidation proceedings — Qualifications of receivers. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 218, ch. 269, § 92; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.92.
 1981 Ed., § 29-392.
 1973 Ed., § 29-931d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.93. Liquidation proceedings — Filing of claims. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 218, ch. 269, § 93; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.93.
 1981 Ed., § 29-393.
 1973 Ed., § 29-931e.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.94. Liquidation proceedings — Discontinuance. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 218, ch. 269, § 94; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.94.
 1981 Ed., § 29-394.
 1973 Ed., § 29-931f.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.95. Liquidation proceedings — Decree of involuntary dissolution. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 218, ch. 269, § 95; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.95.

1981 Ed., § 29-395.
 1973 Ed., § 29-931g.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.96. Liquidation proceedings — Filing of decree of dissolution. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 219, ch. 269, § 96; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.96.
1981 Ed., § 29-396.
1973 Ed., § 29-931h.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.97. Survival of remedy after dissolution. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 219, ch. 269, § 97; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.97.
1981 Ed., § 29-397.
1973 Ed., § 29-931i.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.98. Report of domestic corporation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 219, ch. 269, § 98; July 23, 1959, 73 Stat. 241, Pub. L. 86-106, § 12; Sept. 10, 1992, D.C. Law 9-144, § 4(hh), 39 DCR 4863; Sept. 8, 1995, D.C. Law 11-39, § 2(a), 42 DCR 3273; Apr. 9, 1997, D.C. Law 11-185, § 2(a), 43 DCR 4510; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.98.
1981 Ed., § 29-398.
1973 Ed., § 29-932.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a), (c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary amendment of section, see § 2(a) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125) and § 2(a) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension

Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary suspension of all references in §§ 29-101.98, 29-101.112, 29-101.115, 29-101.121, 29-101.122, and 29-101.128 to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$100, see § 2(c) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review

Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29-101.58a.

Legislative history of Law 11-39. — Law 11-39, the “Business Corporation Five-Year Report Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-51, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 2, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-72 and transmitted to both Houses of Congress for its review. D.C. Law 11-39 became effective on September 8, 1995.

Legislative history of Law 11-185. — Law 11-185, the “Business Corporation Two-Year Report Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-580,

which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-338 and transmitted to both Houses of Congress for its review. D.C. Law 11-185 became effective on April 9, 1997.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor’s notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.99. Foreign corporations — Admission to transact business; procurement of certificate of authority limited in certain cases; service of process; rules and regulations. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 219, ch. 269, § 99; Sept. 19, 1966, 80 Stat. 813, Pub. L. 89-591, § 2; Mar. 14, 1984, D.C. Law 5-64, § 2(b), 31 DCR 195; Oct. 5, 1985, D.C. Law 6-42, § 441(a), 32 DCR 4450; Sept. 10, 1992, D.C. Law 9-144, § 4(ii), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.99.

1981 Ed., § 29-399.

1973 Ed., § 29-933.

Legislative history of Law 5-64. — For legislative history of D.C. Law 5-64, see Historical and Statutory Notes following § 29-101.152.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.100. Foreign corporations — Powers, rights, privileges, duties and liabilities. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 220, ch. 269, § 100; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.100.
1981 Ed., § 29-399.1.
1973 Ed., § 29-933a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.101. Foreign corporations — Corporate name. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 220, ch. 269, § 101; Sept. 10, 1992, D.C. Law 9-144, § 4(jj), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.101.
1981 Ed., § 29-399.2.
1973 Ed., § 29-933b.

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.102. Foreign corporations — Change of corporate name. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 220, ch. 269, § 102; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.102.
1981 Ed., § 29-399.3.
1973 Ed., § 29-933c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.103. Foreign corporations — Application for certificate of authority; contents. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 221, ch. 269, § 103; July 23, 1959, 73 Stat. 242, Pub. L. 86-106, § 13; Sept. 10, 1992, D.C. Law 9-144, § 4(kk), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.103.
1981 Ed., § 29-399.4.
1973 Ed., § 29-933d.

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.104. Foreign corporations — Filing of certificate of authority. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 221, ch. 269, § 104; Sept. 2, 1957, 71 Stat. 571, Pub. L.

85-254, § 23; Sept. 10, 1992, D.C. Law 9-144, § 4(ll), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.104.

1981 Ed., § 29-399.5.

1973 Ed., § 29-933e.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.105. Foreign corporations — Effect of certificate of authority. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 22, ch. 269, § 105; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.105.

1981 Ed., § 29-399.6.

1973 Ed., § 29-933f.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.106. Foreign corporations — Registered office and registered agent. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 222, ch. 269, § 106; Sept. 10, 1992, D.C. Law 9-144, § 4(mm), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.106.

1981 Ed., § 29-399.7.

1973 Ed., § 29-933g.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.107. Foreign corporations — Change of registered office or registered agent. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 222, ch. 269, § 107; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 24; July 23, 1959, 73 Stat. 242, Pub. L. 86-106, § 14; Sept. 3, 1963, 77 Stat. 137, Pub. L. 88-111, § 1(7); Sept. 10, 1992, D.C. Law 9-144, § 4(nn)-(qq), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 172.)

Prior Codifications. — 2001 Ed., § 29-101.107.

1981 Ed., § 29-399.8.

1973 Ed., § 29-933h.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.108. Foreign corporations — Service of process; Mayor as agent. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 223, ch. 269, § 108; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 25; July 23, 1959, 73 Stat. 242, Pub. L. 86-106, § 15; Sept. 3, 1963, 77 Stat. 138, Pub. L. 88-111, § 1(8); Mar. 14, 1984, D.C. Law 5-64, § 2(c), 31 DCR 195; Sept. 10, 1992, D.C. Law 9-144, § 4(rr), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.108.

1981 Ed., § 29-399.9.

1973 Ed., § 29-933i.

Legislative history of Law 5-64. — For legislative history of D.C. Law 5-64, see Historical and Statutory Notes following § 29A-101.152.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.109. Foreign corporations — Amendment to articles of incorporation. [Repealed].

Repealed.

(Sept. 10, 1992, D.C. Law 9-144, § 4(ss), 39 DCR 4863.)

Prior Codifications. — 2001 Ed., § 29-101.109.

1981 Ed., § 29-399.10.

Legislative history of Law 9-144. — For

legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

§ 29A-101.110. Foreign corporations — Merger; filing of articles of merger; name change requires new or amended certificate of authority. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 224, ch. 269, § 110; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.110.

1981 Ed., § 29-399.11.

1973 Ed., § 29-933k.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.111. Foreign corporations — Amended certificate of authority. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 224, ch. 269, § 111; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.111.
1981 Ed., § 29-399.12.
1973 Ed., § 29-9331.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.112. Foreign corporations — Annual report; contents. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 224, ch. 269, § 112; July 23, 1959, 73 Stat. 242, Pub. L. 86-106, § 16; Sept. 8, 1995, D.C. Law 11-39, § 2(b), 42 DCR 3273; Apr. 9, 1997, D.C. Law 11-185, § 2(b), 43 DCR 4510; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.112.
1981 Ed., § 29-399.13.
1973 Ed., § 29-933m.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary amendment of section, see § 2(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125), and § 2(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary suspension of all references in section to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$100, see § 2(c) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act

of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 11-39. — For legislative history of D.C. Law 11-39, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 11-185. — For legislative history of D.C. Law 11-185, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.113. Foreign corporations — Withdrawal from doing business in District. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 225, ch. 269, § 113; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 26; Sept. 10, 1992, D.C. Law 9-144, § 4(tt), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.113.
1981 Ed., § 29-399.14.
1973 Ed., § 29-934.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.114. Filing of application for withdrawal; effect of certificate of withdrawal. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 225, ch. 269, § 114; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 27; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.114.
1981 Ed., § 29-399.15.
1973 Ed., § 29-934a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.115. Revocation of certificate of authority. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 226, ch. 269, § 115; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 28; Sept. 8, 1995, D.C. Law 11-39, § 2(c), 42 DCR 3273; Apr. 9, 1997, D.C. Law 11-185, § 2(c), 43 DCR 4510; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.115.
1981 Ed., § 29-399.16.
1973 Ed., § 29-934b.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension of all references in section to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$100, see § 2(c) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual

Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 11-39. — For legislative history of D.C. Law 11-39, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 11-185. — For legislative history of D.C. Law 11-185, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.116. Procedure for issuance of certificate of revocation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 226, ch. 269, § 116; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 29; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.116.

1981 Ed., § 29-399.17.

1973 Ed., § 29-934c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.117. Effect of revocation or withdrawal upon actions and contracts. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 226, ch. 269, § 117; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.117.

1981 Ed., § 29-399.18.

1973 Ed., § 29-934d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.118. Application of chapter to foreign corporations transacting business on chapter's effective date. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 227, ch. 269, § 118; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.118.

1981 Ed., § 29-399.19.

1973 Ed., § 29-934e.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.119. Transacting business without certificate of authority; validity of contracts or corporate acts not impaired; liabilities. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 227, ch. 269, § 119; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.119.

1981 Ed., § 29-399.20.

1973 Ed., § 29-934f.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.120. Mayor; duties and functions. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 227, ch. 269, § 120; Mar. 3, 1979, D.C. Law 2-139, § 3205(j), 25 DCR 5740; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.120.

1981 Ed., § 29-399.21.

1973 Ed., § 29-935.

Legislative history of Law 2-139. — Law 2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee

on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.121. Fees and charges. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 228, ch. 269, § 121; Sept. 2, 1957, 71 Stat. 571, Pub. L. 85-254, § 30; Sept. 3, 1963, 77 Stat. 139, Pub. L. 88-111, § 1(9); Sept. 14, 1976, D.C. Law 1-82, title VII, §§ 701-705, 23 DCR 2461; Sept. 26, 1984, D.C. Law 5-113, § 102, 31 DCR 3974; June 7, 1989, D.C. Law 8-5, § 2, 36 DCR 2654; June 16, 1989, D.C. Law 8-12, § 2, 36 DCR 3371; Sept. 10, 1992, D.C. Law 9-144, § 4(uu), (vv), 39 DCR 4863; Sept. 8, 1995, D.C. Law 11-39, § 2(d), 42 DCR 3273; Apr. 9, 1997, D.C. Law 11-185, § 2(d), 43 DCR 4510; June 5, 2003, D.C. Law 14-307, § 1603(b), 49 DCR 11664; Mar. 3, 2010, D.C. Law 18-111, § 2042, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 2024, 57 DCR 6242; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.121.

1981 Ed., § 29-399.22.

1973 Ed., § 29-936.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

For temporary (225 day) amendment of section, see § 204 of the Fiscal Year 2010 Balanced Budget Support Temporary Act of 2010 (D.C. Law 18-222, September 24, 2010, law notification 57 DCR 9859).

Emergency legislation. — For temporary suspension of all references in section to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$100, see § 2(c) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review

Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary (90 day) amendment of section, see § 1603(b) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1603(b) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1603(b) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2042 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2042 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 204 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 204 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 204 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 1-82. — Law 1-82, the “License Fees and Charges Act of 1976,” was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-113. — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984, and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-5. — Law 8-5, the “District of Columbia Business Corporation Act Amendment Act of 1987,” was introduced in Council and assigned Bill No. 8-145, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 14, 1989 and April 4, 1989, respectively. Signed by the Mayor on April 12, 1989, it was assigned Act No. 8-17 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-12. — Law 8-12, the “District of Columbia Business Corporation Act Amendment Temporary Act of 1989,” was introduced in Council and assigned Bill No. 8-236. The Bill was adopted on first and second readings on April 4, 1989 and April 18, 1989, respectively. Signed by the Mayor on April 27, 1989, it was assigned Act No. 8-28 and transmitted to both Houses of Congress for its review.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 11-39. — For legislative history of D.C. Law 11-39, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 11-185. — For legislative history of D.C. Law 11-185, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-111. — Law 18-111, the “Fiscal Year 2010 Budget Support Act of 2009”, was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

Legislative history of Law 18-223. — Law 18-223, the “Fiscal Year 2011 Budget Support Act of 2010”, was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor’s notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.122. Effect of failure to pay 2-year report fee or to file annual report. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 230, ch. 269, § 122; Sept. 8, 1995, D.C. Law 11-39, § 2(e), 42 DCR 3273; Apr. 9, 1997, D.C. Law 11-185, § 2(e), 43 DCR 4510; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.122.

1981 Ed., § 29-399.23.

1973 Ed., § 29-937.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension of all references in section to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$100, see § 2(c) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual

Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 11-39. — For legislative history of D.C. Law 11-39, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 11-185. — For legislative history of D.C. Law 11-185, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.123. Proclamation of revocation; effect of publication; extension of term of existence. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 230, ch. 269, § 123; Sept. 2, 1957, 71 Stat. 572, Pub. L. 85-254, § 31; Mar. 16, 1982, D.C. Law 4-81, § 3, 29 DCR 156; Apr. 18, 1996, D.C. Law 11-110, § 29(a), 43 DCR 530; Apr. 9, 1997, D.C. Law 11-185, § 2(f), 43 DCR 4510; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.123.

1981 Ed., § 29-399.24.

1973 Ed., § 29-938.

Legislative history of Law 4-81. — Law 4-81, the "Newspaper Publication Act of 1981," was introduced in Council and assigned Bill No. 4-323, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 10, 1981 and November 24, 1981, respectively. Signed by the Mayor on December 21, 1981, it was assigned Act No. 4-135 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed

by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 11-185. — For legislative history of D.C. Law 11-185, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.124. Carrying on business after issuance of proclamation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 231, ch. 269, § 124; Oct. 5, 1985, D.C. Law 6-42, § 441(b), 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 25, 38 DCR 314; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.124.

1981 Ed., § 29-399.25.

1973 Ed., § 29-938a.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-101.99.

Legislative history of Law 8-237. — Law 8-237, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of

1990,” was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.125. Correction of error in proclamation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 231, ch. 269, § 125; Apr. 18, 1996, D.C. Law 11-110, § 29(b), 43 DCR 530; Apr. 9, 1997, D.C. Law 11-185, § 2(g), 43 DCR 4510; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.125.

1981 Ed., § 29-399.26.

1973 Ed., § 938b.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 29A-3101.123.

Legislative history of Law 11-185. — For legislative history of D.C. Law 11-185, see Historical and Statutory Notes following § 29A-101.98.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29A-101.01.

Editor’s notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.126. Proclaimed corporations — Reservation of name. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 232, ch. 269, § 126; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.126.

1981 Ed., § 29-399.27.

1973 Ed., § 29-938c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.127. Proclaimed corporations — Procedure for reinstatement. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 232, ch. 269, § 127; Sept. 3, 1963, 77 Stat. 139, Pub. L. 88-111, § 1(10); Apr. 18, 1996, D.C. Law 11-110, § 29(c), 43 DCR 530; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.127.

1981 Ed., § 29-399.28.

1973 Ed., § 29-938d.

Legislative history of Law 11-110. — For legislative history of D.C. Law 11-110, see His-

torical and Statutory Notes following § 29-101.123.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.128. Penalties — Failure to file 2-year report on time. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 232, ch. 269, § 128; Sept. 8, 1995, D.C. Law 11-39, § 2(f), 42 DCR 3273; Apr. 9, 1997, D.C. Law 11-185, § 2(h), 43 DCR 4510; June 5, 2003, D.C. Law 14-307, § 1603(c), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.128.

1981 Ed., § 29-399.29.

1973 Ed., § 29-939.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension of all references in section to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$100, see § 2(c) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 2(c) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary (90 day) amendment of section, see § 1603(c) of Fiscal Year 2003 Budget

Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1603(c) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1603(c) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 11-39. — For legislative history of D.C. Law 11-39, see Historical and Statutory Notes following § 29A-101.08.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(i) of D.C. Law 11-185 provides that nothing in the act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or

federal taxes, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-101.129. Penalties — Failure to maintain registered office or registered agent. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 232, ch. 269, § 129; Oct. 5, 1985, D.C. Law 6-42, § 441(c), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.129.

1981 Ed., § 29-399.30.

1973 Ed., § 29-940.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Histor-

ical and Statutory Notes following § 29A-101.99.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.130. Penalties — Nonpayment of fees. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 232, ch. 269, § 130; Sept. 2, 1957, 71 Stat. 572, Pub. L. 85-254, § 32; Sept. 3, 1963, 77 Stat. 140, Pub. L. 88-111, § 1(11); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.130.

1981 Ed., § 29-399.31.

1973 Ed., § 29-941.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.131. Penalties — Noncompliance with provisions of chapter. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 233, ch. 269, § 131; Oct. 5, 1985, D.C. Law 6-42, § 441(d), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.131.

1981 Ed., § 29-399.32.

1973 Ed., § 29-942.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Histor-

ical and Statutory Notes following § 29A-101.99.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.132. Rights and immunities of witnesses. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 233, ch. 269, § 132; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

§ 29A-101.133

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-101.132.
1981 Ed., § 29-399.33.
1973 Ed., § 29-943.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.133. Monopolies and restraint of trade. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 233, ch. 269, § 133; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.133.
1981 Ed., § 29-399.34.
1973 Ed., § 29-944.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.134. Waiver of notice. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 233, ch. 269, § 134; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.134.
1981 Ed., § 29-399.35.
1973 Ed., § 29-945.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.135. Voting requirements of articles of incorporation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 233, ch. 269, § 135; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.135.
1981 Ed., § 29-399.36.
1973 Ed., § 29-946.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.136. Requirements of action without meeting. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 234, ch. 269, § 136; Sept. 3, 1963, 77 Stat. 140, Pub. L. 88-111, § 1(12); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.136.
1981 Ed., § 29-399.37.
1973 Ed., § 29-947.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.137. Procedures for appeal. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 234, ch. 269, § 137; July 29, 1970, 84 Stat. 582, Pub. L. 91-358, title I, §§ 163(b), 168(c)(3); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.137.
1981 Ed., § 29-399.38.
1973 Ed., § 29-948.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.138. Certificates and certified copies of certain documents to be received in evidence. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 234, ch. 269, § 138); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.138.
1981 Ed., § 29-399.39.
1973 Ed., § 29-949.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.139. Unauthorized assumption of corporate powers. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 235, ch. 269, § 139); July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.139.
1981 Ed., § 29-399.40.
1973 Ed., § 29-950.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.140. Forms to be furnished by Mayor. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 235, ch. 269, § 140; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.140.
1981 Ed., § 29-399.41.
1973 Ed., § 29-951.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.141. Reincorporation or incorporation of existing corporations. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 235, ch. 269, § 141; Sept. 2, 1957, 71 Stat. 572, Pub. L. 85-254, § 33; Oct. 13, 1978, D.C. Law 2-117, § 2, 25 DCR 1509; Sept. 10, 1992, D.C. Law 9-144, § 4(ww), (xx), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.141.

1981 Ed., § 29-399.42.

1973 Ed., § 29-952.

Legislative history of Law 2-117. — For legislative history of D.C. Law 2-117, see Historical and Statutory Notes following § 29A-101.03.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.142. Effect of issuance of certificate of reincorporation or incorporation. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 237, ch. 269, § 142; Sept. 2, 1957, 71 Stat. 574, Pub. L. 85-254, § 34; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.142.

1981 Ed., § 29-399.43.

1973 Ed., § 29-952a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.143. Duties of Recorder of Deeds transferred to Mayor. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 238, ch. 269, § 143; Sept. 2, 1957, 71 Stat. 575, Pub. L. 85-254, § 35; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.143.

1981 Ed., § 29-399.44.

1973 Ed., § 29-953.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.144. Severability of provisions. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 238, ch. 269, § 144; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.144.

1981 Ed., § 29-399.45.

1973 Ed., § 29-954.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.145. Reservation of right to alter, amend or repeal. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 238, ch. 269, § 145; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.145.
1981 Ed., § 29-399.46.
1973 Ed., § 29-955.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.146. Effective date. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 238, ch. 269, § 146; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.146

history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 18-378. — For

§ 29A-101.147. Appropriation of funds. [Repealed].

Repealed.

(June 8, 1954, 68 Stat. 239, ch. 269, § 147; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.147.
1981 Ed., § 29-399.47.
1973 Ed., § 29-956.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.148. Use of certified mail. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 148; July 23, 1959, 73 Stat. 242, Pub. L. 86-106, § 17; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.148.
1981 Ed., § 29-399.48.
1973 Ed., § 29-957.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.149. Civil actions and prosecutions. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 149; July 23, 1959, 73 Stat. 242, Pub. L. 86-106, § 17; Oct. 5, 1985, D.C. Law 6-42, § 441(e), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.149.

1981 Ed., § 29-399.49.

1973 Ed., § 29-958.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Histor-

ical and Statutory Notes following § 29A-101.99.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.150. Omitted. [Repealed].

Omitted.

§ 29A-101.151. Verification no longer required; penalty for misstatement of fact. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 151; Sept. 3, 1963, 77 Stat. 140, Pub. L. 88-111, § 1(13); Oct. 5, 1985, D.C. Law 6-42, § 441(f), 32 DCR 4450; Sept. 10, 1992, D.C. Law 9-144, § 4(yy), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.151.

1981 Ed., § 29-399.50.

1973 Ed., § 29-959.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-101.99.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.152. Exemption of government agencies from fees levied for Mayor as registered agent. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 152, as added Mar. 14, 1984, D.C. Law 5-64, § 2(d), 31 DCR 195; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.152.

1981 Ed., § 29-399.51.

Legislative history of Law 5-64. — Law 5-64, the "Mayoral Agent for Service of Process Fee Increase Act of 1983," was introduced in Council and assigned Bill No. 5-91, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and

second readings on December 20, 1983, and January 3, 1984, respectively. Signed by the Mayor on January 11, 1984, it was assigned Act No. 5-97 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.153. Domestication. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 153, as added Sept. 10, 1992, D.C. Law 9-144, § 4(zz), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.153.

1981 Ed., § 29-399.52.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.154. Effect of domestication. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 154, as added Sept. 10, 1992, D.C. Law 9-144, § 4(aaa), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.154.

1981 Ed., § 29-399.53.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.155. Close corporations — Law applicable to close corporations. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 155, as added Sept. 10, 1992, D.C. Law 9-144, § 4(bbb), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.155.

1981 Ed., § 29-399.54.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.156. Close corporations — Close corporation defined; contents of articles of incorporation. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 156, as added Sept. 10, 1992, D.C. Law 9-144, § 4(ccc), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.156.

1981 Ed., § 29-399.55.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.157. Close corporations — Formation of a close corporation. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 157, as added Sept. 10, 1992, D.C. Law 9-144, § 4(ddd), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.157.

1981 Ed., § 29-399.56.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.158. Close corporations — Election of existing corporation to become a close corporation. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 158, as added Sept. 10, 1992, D.C. Law 9-144, § 4(eee), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.158.

1981 Ed., § 29-399.57.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.159. Close corporations — Limitations on continuation of close corporation status. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 159, as added Sept. 10, 1992, D.C. Law 9-144, § 4(fff), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.159.

1981 Ed., § 29-399.58.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.160. Close corporations — Voluntary termination of close corporation status by amendment of articles of incorporation; vote required. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 160, as added Sept. 10, 1992, D.C. Law 9-144, § 4(ggg), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.160.

1981 Ed., § 29-399.59.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.161. Close corporations — Issuance or transfer of stock of a close corporation in breach of qualifying conditions. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 161, as added Sept. 10, 1992, D.C. Law 9-144, § 4(hhh), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.161.

1981 Ed., § 29-399.60.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.162. Close corporations — Involuntary termination of close corporation status; proceeding to prevent loss of status. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 162, as added Sept. 10, 1992, D.C. Law 9-144, § 4(iii), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.162.

1981 Ed., § 29-399.61.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.163. Close corporations — Corporation option where a restriction on transfer of a security is held invalid. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 163, as added Sept. 10, 1992, D.C. Law 9-144, § 4(ijj), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.163.

1981 Ed., § 29-399.62.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.164. Close corporations — Agreements restricting discretion of directors. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 164, as added Sept. 10, 1992, D.C. Law 9-144, § 4(kkk), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.164.

1981 Ed., § 29-399.63.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.165. Close corporations — Management by shareholders. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 165, as added Sept. 10, 1992, D.C. Law 9-144, § 4(III), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.165.

1981 Ed., § 29-399.64.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.166. Close corporations — Appointment of custodian for close corporation. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 166, as added Sept. 10, 1992, D.C. Law 9-144, § 4(mmm), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.166.

1981 Ed., § 29-399.65.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.167. Close corporations — Appointment of a provisional director in certain cases. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 167, as added Sept. 10, 1992, D.C. Law 9-144, § 4(nnn), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.167.

1981 Ed., § 29-399.66.

Legislative history of Law 9-144. — For

legislative history of D.C. Law 9-144, see Historical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.168. Close corporations — Operating corporation as partnership. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 168, as added Sept. 10, 1992, D.C. Law 9-144, § 4(ooo), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.168.

1981 Ed., § 29-399.67.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.169. Close corporations — Shareholders' option to dissolve corporation. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 169, as added Sept. 10, 1992, D.C. Law 9-144, § 4(ppp), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.169.

1981 Ed., § 29-399.68.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-101.170. Close corporations — Effect of close corporation provisions on other laws. [Repealed].

Repealed.

(June 8, 1954, ch. 269, § 170, as added Sept. 10, 1992, D.C. Law 9-144, § 4(qqq), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(j), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-101.170.

1981 Ed., § 29-399.69.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-101.58a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 2. BUSINESS CORPORATIONS (1901). [REPEALED].

Subchapter I. General. [Repealed]

Sec.

- 29A-201.01. Formation — Number of incorporators; dealing in real estate. [Repealed].
- 29A-201.02. Formation — Contents of certificate. [Repealed].
- 29A-201.03. Formation — Name; powers; restrictions on mortgages. [Repealed].
- 29A-201.04. Trustees — Duties; qualifications; annual election. [Repealed].
- 29A-201.05. Trustees — Procedure for election; vacancies. [Repealed].
- 29A-201.06. Trustees — Effect of failure to hold election of trustees at designated time. [Repealed].
- 29A-201.07. Officers. [Repealed].
- 29A-201.08. Bylaws. [Repealed].
- 29A-201.09. Stock — Amount to be paid in before commencing business; calls for residue of subscription; failure to make payments. [Repealed].
- 29A-201.10. Stock — Deemed personal property; transferability. [Repealed].
- 29A-201.11. Liability of stockholders. [Repealed].
- 29A-201.12. Certificate of capital stock paid in. [Repealed].
- 29A-201.13. Annual report — Filing; fees; and penalties. [Repealed].
- 29A-201.14. Registered office and registered agent. [Repealed].
- 29A-201.15. Registered office and registered agent — Liability of officers for false certificate or report. [Repealed].
- 29A-201.16. Purchase of stock of other corporations unlawful. [Repealed].
- 29A-201.17. Loans secured by corporation's own stock prohibited; release of borrower. [Repealed].
- 29A-201.18. Dividends not to be declared if corporation is thereby rendered insolvent or capital decreased — Trustees personally liable for debts. [Repealed].
- 29A-201.19. Dividends not to be declared if corporation is thereby rendered insolvent or capital decreased — Exemption from liability for objecting trustees. [Repealed].
- 29A-201.20. Executor, administrator, guardian, or trustee — No personal liability as stockholder. [Repealed].
- 29A-201.21. Executor, administrator, guardian, or trustee — Right to vote. [Repealed].

Sec.

- 29A-201.22. Pledges of stock; no personal liability; right to vote. [Repealed].
- 29A-201.23. Stock book — To be kept by treasurer or secretary; contents. [Repealed].
- 29A-201.24. Stock book — Inspection. [Repealed].
- 29A-201.25. Stock book — Effect of records. [Repealed].
- 29A-201.26. Stock book — Presumptive evidence of facts stated therein. [Repealed].
- 29A-201.27. Stock book — Failure to make entries or to allow inspections of books. [Repealed].
- 29A-201.28. Stock book — Liability for neglect to keep open for inspection. [Repealed].
- 29A-201.29. Increase or diminution of stock — Extension of business. [Repealed].
- 29A-201.30. Diminution of capital stock when debts exceed proposed capital. [Repealed].
- 29A-201.31. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Notice to stockholders. [Repealed].
- 29A-201.32. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Quorum. [Repealed].
- 29A-201.33. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Certificate by chairman. [Repealed].
- 29A-201.34. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Filing of certificate. [Repealed].
- 29A-201.35. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Vote required for approval. [Repealed].
- 29A-201.36. Certified copy of certificate of incorporation to be presumptive evidence. [Repealed].
- 29A-201.37. Amendment of charter; procedure. [Repealed].
- 29A-201.38. Stock; classes of preferred and common authorized; restrictions, limitations or preferences to be printed on stock certificate; "charter" defined. [Repealed].
- 29A-201.39. Sale, lease or exchange of property or assets as an entirety; ap-

- Sec. proval of stockholders required; rights of dissenting stockholders. [Repealed].
- 29A-201.40. Fire insurance companies formed prior to January 1, 1902, may become perpetual. [Repealed].

Subchapter II. Dissolution of Corporations. [Repealed]

- 29A-221.01. Voluntary dissolution — Application for decree or to court. [Repealed].
- 29A-221.02. Voluntary dissolution — Contents of application. [Repealed].
- 29A-221.03. Order to appear; notice. [Repealed].
- 29A-221.04. Auditor's report of corporate officers. [Repealed].
- 29A-221.05. Decree of dissolution; appointment of receivers. [Repealed].
- 29A-221.06. Receiver — Bond required. [Repealed].
- 29A-221.07. Receiver — Vested with corporate property. [Repealed].
- 29A-221.08. Receiver — Corporate authority; notice of appointment. [Repealed].
- 29A-221.09. Effect of transactions and judgments confessed after petition filed. [Repealed].
- 29A-221.10. Receiver; settlement of controversies; executory contracts. [Repealed].
- 29A-221.11. Surplus assets — Distribution to creditors. [Repealed].
- 29A-221.12. Surplus assets — Distribution to stockholders. [Repealed].
- 29A-221.13. Receiver subject to court's direction; compensation. [Repealed].
- 29A-221.14. Dissolution before capital stock paid in or investments made. [Repealed].
- 29A-221.15. Dissolution by expiration of charter; authority of trustees for creditors and stockholders. [Repealed].
- 29A-221.16. Dissolution — Actions pending not abated. [Repealed].

- Sec. 29A-221.17. Dissolution — Proceedings in corporate name for use of others. [Repealed].
- 29A-221.18. Suits after dissolution. [Repealed].
- 29A-221.19. Involuntary dissolution — Suit by United States Attorney. [Repealed].
- 29A-221.20. Involuntary dissolution — Answer of corporation. [Repealed].
- 29A-221.21. Pleading. [Repealed].
- 29A-221.22. Trial; decree of forfeiture; appointment of receiver. [Repealed].
- 29A-221.23. Ex parte proceeding after default in pleading. [Repealed].
- 29A-221.24. Final decree; power to withhold pending remedy of grievance. [Repealed].
- 29A-221.25. Injunction against assuming corporate franchise or transacting business not authorized by charter. [Repealed].
- 29A-221.26. Involuntary dissolution on application of creditors. [Repealed].
- 29A-221.27. Injunction against transferring assets. [Repealed].
- 29A-221.28. Parties defendant in creditor's suit. [Repealed].
- 29A-221.29. Account and distribution. [Repealed].

Subchapter III. Boards of Trade. [Repealed]

- 29A-241.01. Incorporation; number of incorporators; election of officers; powers of body politic. [Repealed].
- 29A-241.02. Power to hold real or personal estate. [Repealed].
- 29A-241.03. Officers — Duties. [Repealed].
- 29A-241.04. Officers — Election; failure to hold. [Repealed].
- 29A-241.05. Officers — Tenure of office. [Repealed].
- 29A-241.06. Bylaws. [Repealed].
- 29A-241.07. Penalty for breach of provisions. [Repealed].
- 29A-241.08. Limitation on authority to do business. [Repealed].

Subchapter I. General. [Repealed].

§ 29A-201.01. Formation — Number of incorporators; dealing in real estate. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1284, ch. 854, § 605; June 30, 1902, 32 Stat. 533, ch. 1329; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

§ 29A-201.02

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-201.01.
1981 Ed., § 29-201.
1973 Ed., § 29-201.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.02. Formation — Contents of certificate. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 606; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.02.
1981 Ed., § 29-202.
1973 Ed., § 29-202.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.03. Formation — Name; powers; restrictions on mortgages. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 607; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.03.
1981 Ed., § 29-203.
1973 Ed., § 29-203.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.04. Trustees — Duties; qualifications; annual election. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 608; July 13, 1959, 73 Stat. 181, Pub. L. 86-83; Apr. 22, 1960, 74 Stat. 78, Pub. L. 86-436; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.04.
1981 Ed., § 29-204.
1973 Ed., § 29-204.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.05. Trustees — Procedure for election; vacancies. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 609; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.05.

1981 Ed., § 29-205.
1973 Ed., § 29-205.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.06. Trustees — Effect of failure to hold election of trustees at designated time. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 610; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.06.
1981 Ed., § 29-206.
1973 Ed., § 29-206.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.07. Officers. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 611; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.07.
1981 Ed., § 29-207.
1973 Ed., § 29-207.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.08. Bylaws. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1285, ch. 854, § 612; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.08.
1981 Ed., § 29-208.
1973 Ed., § 29-208.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.09. Stock — Amount to be paid in before commencing business; calls for residue of subscription; failure to make payments. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 613; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.09.
1981 Ed., § 29-209.
1973 Ed., § 29-209.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.10. Stock — Deemed personal property; transferability. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 614; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.10.
1981 Ed., § 29-210.
1973 Ed., § 29-210.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.11. Liability of stockholders. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 615; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.11.
1981 Ed., § 29-211.
1973 Ed., § 29-211.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.12. Certificate of capital stock paid in. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 616; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.12.
1981 Ed., § 29-212.
1973 Ed., § 29-212.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.13. Annual report — Filing; fees; and penalties. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 617; Sept. 10, 1992, D.C. Law 9-144, § 3(a), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.13.
1981 Ed., § 29-213.
1973 Ed., § 29-213.

Legislative history of Law 9-144. — Law 9-144, the “District of Columbia Corporation Law Amendment Act of 1992,” was introduced

in Council and assigned Bill No. 9-64, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 6, 1992, and June 2, 1992, respectively. Signed by the Mayor on June 19, 1992, it was assigned Act No. 9-224 and transmitted to both Houses of

Congress for its review. D.C. Law 9-144 became effective on September 10, 1992.

Legislative history of Law 18-378. — For

history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.14. Registered office and registered agent. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 618; June 30, 1902, 32 Stat. 533, ch. 1329; Sept. 10, 1992, D.C. Law 9-144, § 3(b), 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.14.

1981 Ed., § 29-214.

1973 Ed., § 29-214.

Legislative history of Law 9-144. — For legislative history of D.C. Law 9-144, see His-

torical and Statutory Notes following § 29A-201.13.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.15. Registered office and registered agent — Liability of officers for false certificate or report. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 619; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.15.

1981 Ed., § 29-215.

1973 Ed., § 29-215.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.16. Purchase of stock of other corporations unlawful. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 620; Mar. 14, 1952, 66 Stat. 24, ch. 103, § 1; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.16.

1981 Ed., § 29-216.

1973 Ed., § 29-216.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.17. Loans secured by corporation's own stock prohibited; release of borrower. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1286, ch. 854, § 621; June 30, 1902, 32 Stat. 533, ch. 1329; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

§ 29A-201.18

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-201.17.
1981 Ed., § 29-217.
1973 Ed., § 29-217.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.18. Dividends not to be declared if corporation is thereby rendered insolvent or capital decreased — Trustees personally liable for debts. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 622; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.18.
1981 Ed., § 29-218.
1973 Ed., § 29-218.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.19. Dividends not to be declared if corporation is thereby rendered insolvent or capital decreased — Exemption from liability for objecting trustees. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 623; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.19.
1981 Ed., § 29-219.
1973 Ed., § 29-219.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.20. Executor, administrator, guardian, or trustee — No personal liability as stockholder. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 624; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.20.
1981 Ed., § 29-220.
1973 Ed., § 29-220.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.21. Executor, administrator, guardian, or trustee — Right to vote. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 625; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.21.
1981 Ed., § 29-221.
1973 Ed., § 29-221.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.22. Pledges of stock; no personal liability; right to vote. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 626; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.22.
1981 Ed., § 29-222.
1973 Ed., § 29-222.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.23. Stock book — To be kept by treasurer or secretary; contents. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 627; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.23.
1981 Ed., § 29-223.
1973 Ed., § 29-223.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.24. Stock book — Inspection. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 628; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.24.
1981 Ed., § 29-224.
1973 Ed., § 29-224.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.25. Stock book — Effect of records. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 629; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.25.

1981 Ed., § 29-225.
1973 Ed., § 29-225.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.26. Stock book — Presumptive evidence of facts stated therein. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1287, ch. 854, § 630; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.26.
1981 Ed., § 29-226.
1973 Ed., § 25-226.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.27. Stock book — Failure to make entries or to allow inspections of books. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 631; Oct. 5, 1985, D.C. Law 6-42, § 470(b), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.27.
1981 Ed., § 29-227.
1973 Ed., § 29-227.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.28. Stock book — Liability for neglect to keep open for inspection. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 632; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, §§ 155(c)(1)(F), 169(1); Oct. 5, 1985, D.C. Law 6-42, § 470(c), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.28.
1981 Ed., § 29-228.
1973 Ed., § 29-228.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Histor-

ical and Statutory Notes following § 29A-201.27.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.29. Increase or diminution of stock — Extension of business. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 633; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.29.
1981 Ed., § 29-229.
1973 Ed., § 29-229.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.30. Diminution of capital stock when debts exceed proposed capital. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 634; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.30.
1981 Ed., § 29-230.
1973 Ed., § 29-230.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.31. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Notice to stockholders. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 635; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.31.
1981 Ed., § 29-231.
1973 Ed., § 29-231.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.32. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Quorum. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 636; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.32.
1981 Ed., § 29-232.
1973 Ed., § 29-232.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.33. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Certificate by chairman. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 637; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.33.
1981 Ed., § 29-233.
1973 Ed., § 29-233.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.34. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Filing of certificate. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 638; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.34.
1981 Ed., § 29-234.
1973 Ed., § 29-234.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.35. Meeting of stockholders for purpose of increase or diminution of capital stock, or change of business — Vote required for approval. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 639; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.35.
1981 Ed., § 29-235.
1973 Ed., § 29-235.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.36. Certified copy of certificate of incorporation to be presumptive evidence. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1288, ch. 854, § 640; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.36.
1981 Ed., § 29-236.
1973 Ed., § 29-236.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.37. Amendment of charter; procedure. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 639b; Feb. 12, 1931, 46 Stat. 1089, ch. 120; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.37.
1981 Ed., § 29-238.
1973 Ed., § 29-238.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.38. Stock; classes of preferred and common authorized; restrictions, limitations or preferences to be printed on stock certificate; “charter” defined. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 639c; Feb. 12, 1931, 46 Stat. 1089, ch. 120; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.38.
1981 Ed., § 29-239.
1973 Ed., § 29-239.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.39. Sale, lease or exchange of property or assets as an entirety; approval of stockholders required; rights of dissenting stockholders. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 639d; Feb. 12, 1931, 46 Stat. 1089, ch. 120; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(d)(1); July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.39.
1981 Ed., § 29-240.
1973 Ed., § 29-240.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-201.40. Fire insurance companies formed prior to January 1, 1902, may become perpetual. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1289, ch. 854, § 641; July 2, 2011, D.C. Law 18-378, § 3(k)(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-201.40.

1981 Ed., § 29-237.

1973 Ed., § 29-237.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Subchapter II. Dissolution of Corporations. [Repealed].

§ 29A-221.01. Voluntary dissolution — Application for decree or to court. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1316, ch. 854, § 768; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(d)(2); July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.01.

1981 Ed., § 29-401.

1973 Ed., § 29-701.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.02. Voluntary dissolution — Contents of application. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 769; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.02.

1981 Ed., § 29-402.

1973 Ed., § 29-702.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.03. Order to appear; notice. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 770; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.03.
 1981 Ed., § 29-403.
 1973 Ed., § 29-703.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.04. Auditor's report of corporate officers. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 771; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.04.
 1981 Ed., § 29-404.
 1973 Ed., § 29-704.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.05. Decree of dissolution; appointment of receivers. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 772; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.05.
 1981 Ed., § 29-405.
 1973 Ed., § 29-705.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.06. Receiver — Bond required. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 773; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.06.
 1981 Ed., § 29-406.
 1973 Ed., § 29-706.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.07. Receiver — Vested with corporate property. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 774; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.07.
 1981 Ed., § 29-407.
 1973 Ed., § 29-707.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.08

CORPORATIONS. [REPEALED]

§ 29A-221.08. Receiver — Corporate authority; notice of appointment. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1317, ch. 854, § 775; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.08.

1981 Ed., § 29-408.

1973 Ed., § 29-708.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.09. Effect of transactions and judgments confessed after petition filed. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 776; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 172.)

Prior Codifications. — 2001 Ed., § 29-221.09.

1981 Ed., § 29-409.

1973 Ed., § 29-709.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.10. Receiver; settlement of controversies; executory contracts. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 777; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.10.

1981 Ed., § 29-410.

1973 Ed., § 29-710.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.11. Surplus assets — Distribution to creditors. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 778; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.11.

1981 Ed., § 29-411.

1973 Ed., § 29-711.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.12. Surplus assets — Distribution to stockholders. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 779; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.12.
1981 Ed., § 29-412.
1973 Ed., § 29-712.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.13. Receiver subject to court's direction; compensation. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 780; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.13.
1981 Ed., § 29-413.
1973 Ed., § 29-713.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.14. Dissolution before capital stock paid in or investments made. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 781; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.14.
1981 Ed., § 29-414.
1973 Ed., § 29-714.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.15. Dissolution by expiration of charter; authority of trustees for creditors and stockholders. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1318, ch. 854, § 782; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(d)(2); July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.15.
1981 Ed., § 29-415.
1973 Ed., § 29-715.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.16. Dissolution — Actions pending not abated. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 783; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.16.
1981 Ed., § 29-416.
1973 Ed., § 29-716.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.17. Dissolution — Proceedings in corporate name for use of others. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 784; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.17.
1981 Ed., § 29-417.
1973 Ed., § 29-717.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.18. Suits after dissolution. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 785; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.18.
1981 Ed., § 29-418.
1973 Ed., § 29-718.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.19. Involuntary dissolution — Suit by United States Attorney. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 786; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 909, ch. 646, §§ 1, 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, §§ 168(d)(2), 169(2); July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.19.
1981 Ed., § 29-419.
1973 Ed., § 29-719.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.20. Involuntary dissolution — Answer of corporation. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 787; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.20.
1981 Ed., § 29-420.
1973 Ed., § 29-720.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.21. Pleading. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 788; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.21.
1981 Ed., § 29-421.
1973 Ed., § 29-721.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.22. Trial; decree of forfeiture; appointment of receiver. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1319, ch. 854, § 789; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.22.
1981 Ed., § 29-422.
1973 Ed., § 29-722.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.23. Ex parte proceeding after default in pleading. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1320, ch. 854, § 790; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.23.
1981 Ed., § 29-423.
1973 Ed., § 29-723.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.24. Final decree; power to withhold pending remedy of grievance. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1320, ch. 854, § 791; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 172.)

Prior Codifications. — 2001 Ed., § 29-221.24.
1981 Ed., § 29-424.
1973 Ed., § 29-724.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.25. Injunction against assuming corporate franchise or transacting business not authorized by charter. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1320, ch. 854, § 793; June 30, 1902, 32 Stat. 534, ch. 1329; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 909, ch. 646, §§ 1, 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, §§ 155(c)(1)(I), 169(3); July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.25.
1981 Ed., § 29-425.
1973 Ed., § 29-725.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.26. Involuntary dissolution on application of creditors. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1320, ch. 854, § 794; June 25, 1948, 62 Stat. 909, ch. 646, § 1; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.26.
1981 Ed., § 29-426.
1973 Ed., § 29-726.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.27. Injunction against transferring assets. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1320, ch. 854, § 795; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.27.

1981 Ed., § 29-427.
1973 Ed., § 29-727.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.28. Parties defendant in creditor's suit. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 796; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.28.
1981 Ed., § 29-428.
1973 Ed., § 29-728.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-221.29. Account and distribution. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1321, ch. 854, § 797; July 2, 2011, D.C. Law 18-378, § 3(k)(3), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-221.29.
1981 Ed., § 29-429.
1973 Ed., § 29-729.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Subchapter III. Boards of Trade. [Repealed].

§ 29A-241.01. Incorporation; number of incorporators; election of officers; powers of body politic. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, §§ 701, 702; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.01.
1981 Ed., § 29-701.
1973 Ed., § 29-301.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.02. Power to hold real or personal estate. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 703; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

§ 29A-241.03

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-241.02.
1981 Ed., § 29-702.
1973 Ed., § 29-302.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.03. Officers — Duties. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 704; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.03.
1981 Ed., § 29-703.
1973 Ed., § 29-303.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.04. Officers — Election; failure to hold. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 705; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.04.
1981 Ed., § 29-704.
1973 Ed., § 29-304.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.05. Officers — Tenure of office. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 706; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.05.
1981 Ed., § 29-705.
1973 Ed., § 29-305.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.06. Bylaws. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 707; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.06.
1981 Ed., § 29-706.
1973 Ed., § 29-306.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.07. Penalty for breach of provisions. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 708; Feb. 17, 1909, 35 Stat. 623, ch. 134; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.07.

1981 Ed., § 29-707.

1973 Ed., § 29-307.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-241.08. Limitation on authority to do business. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1301, ch. 854, § 709; July 2, 2011, D.C. Law 18-378, § 3(k)(4), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-241.08.

1981 Ed., § 29-708.

1973 Ed., § 29-308.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 3. NONPROFIT CORPORATIONS. [REPEALED].

Subchapter I. General. [Repealed]

Sec.	Sec.
29A-301.01. Short title. [Repealed].	29A-301.34. Articles of incorporation — Right to amend. [Repealed].
29A-301.02. Definitions. [Repealed].	29A-301.35. Articles of incorporation — Procedure to amend. [Repealed].
29A-301.03. Applicability. [Repealed].	29A-301.36. Articles of amendment — Contents; vote required for approval. [Repealed].
29A-301.04. Purposes for corporate organization. [Repealed].	29A-301.37. Articles of amendment — Filing. [Repealed].
29A-301.05. General powers. [Repealed].	29A-301.38. Effect of certificate of amendment. [Repealed].
29A-301.06. Defense of ultra vires. [Repealed].	29A-301.39. Procedure for merger. [Repealed].
29A-301.07. Corporate name. [Repealed].	29A-301.40. Procedure for consolidation. [Repealed].
29A-301.08. Reserved name; transferability of right to exclusive use. [Repealed].	29A-301.41. Merger or consolidation — Procedure for approval. [Repealed].
29A-301.09. Registered office and registered agent. [Repealed].	29A-301.42. Merger or consolidation — Contents of articles. [Repealed].
29A-301.10. Change of registered office or registered agent. [Repealed].	29A-301.43. Merger or consolidation — Effective date. [Repealed].
29A-301.11. Registered agent for service. [Repealed].	29A-301.44. Merger or consolidation — Effect; surviving or new corporation; rights, privileges, powers, immunities, duties and liabilities. [Repealed].
29A-301.12. Members. [Repealed].	29A-301.45. Merger or consolidation — Domestic and foreign corporations. [Repealed].
29A-301.13. Bylaws. [Repealed].	29A-301.46. Sale, lease, exchange, or mortgage of assets. [Repealed].
29A-301.14. Meetings of members — Annual and special. [Repealed].	29A-301.47. Voluntary dissolution — Notice; vote required for approval. [Repealed].
29A-301.15. Meetings of members — Notice. [Repealed].	29A-301.48. Voluntary dissolution — Distribution of assets. [Repealed].
29A-301.16. Voting. [Repealed].	29A-301.49. Voluntary dissolution — Plan of distribution. [Repealed].
29A-301.17. Quorum. [Repealed].	29A-301.50. Voluntary dissolution — Revocation of proceedings; notice; vote required for approval. [Repealed].
29A-301.18. Board of directors — Qualifications. [Repealed].	29A-301.51. Articles of dissolution — Contents. [Repealed].
29A-301.19. Board of directors — Number; election; classification; and removal. [Repealed].	29A-301.52. Articles of dissolution — Procedure for filing. [Repealed].
29A-301.20. Board of directors — Vacancies. [Repealed].	29A-301.53. Involuntary dissolution. [Repealed].
29A-301.21. Board of directors — Quorum. [Repealed].	29A-301.54. Venue and process. [Repealed].
29A-301.22. Board of directors — Designation or appointment of committees; authority. [Repealed].	29A-301.55. Liquidation proceedings — Jurisdiction of court. [Repealed].
29A-301.23. Board of directors — Meetings. [Repealed].	29A-301.56. Liquidation proceedings — Procedure; hearing; authority of receivers; distribution of assets. [Repealed].
29A-301.24. Officers — Appointment or election; tenure of office; authority. [Repealed].	29A-301.57. Liquidation proceedings — Qualification of receivers. [Repealed].
29A-301.25. Officers — Removal. [Repealed].	29A-301.58. Liquidation proceedings — Filing of claims. [Repealed].
29A-301.26. Books and records; right of inspection. [Repealed].	29A-301.59. Liquidation proceedings — Discontinuance. [Repealed].
29A-301.27. Shares of stock and dividends prohibited. [Repealed].	
29A-301.28. Loans to directors and officers prohibited. [Repealed].	
29A-301.29. Incorporators. [Repealed].	
29A-301.30. Articles of incorporation. [Repealed].	
29A-301.31. Filing of articles of incorporation. [Repealed].	
29A-301.32. Effect of issuance of certificate of incorporation. [Repealed].	
29A-301.33. Organization meetings; purpose; notice. [Repealed].	

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| <p>Sec.</p> <p>29A-301.60. Liquidation proceedings — Decree of dissolution. [Repealed].</p> <p>29A-301.61. Liquidation proceedings — Filing of decree of dissolution. [Repealed].</p> <p>29A-301.62. Dissolution — Distribution of assets; deposits and registry of court. [Repealed].</p> <p>29A-301.63. Dissolution — Survival of remedy. [Repealed].</p> <p>29A-301.64. Foreign corporations — Admission to conduct affairs in District. [Repealed].</p> <p>29A-301.65. Foreign corporations — Powers authorized. [Repealed].</p> <p>29A-301.66. Foreign corporations — Corporate name. [Repealed].</p> <p>29A-301.67. Foreign corporations — Change of corporate name. [Repealed].</p> <p>29A-301.68. Foreign corporations — Application for certificate of authority. [Repealed].</p> <p>29A-301.69. Foreign corporations — Filing of application for certificate of authority. [Repealed].</p> <p>29A-301.70. Foreign corporations — Effect of certificate of authority. [Repealed].</p> <p>29A-301.71. Foreign corporations — Registered office and registered agent. [Repealed].</p> <p>29A-301.72. Foreign corporations — Change of registered office or registered agent. [Repealed].</p> <p>29A-301.73. Foreign corporations — Service of process. [Repealed].</p> <p>29A-301.74. Foreign corporations — Amendment to articles of incorporation; filing. [Repealed].</p> <p>29A-301.75. Foreign corporations — Merger. [Repealed].</p> <p>29A-301.76. Foreign corporations — Amended certificate of authority. [Repealed].</p> <p>29A-301.77. Foreign corporations — Withdrawal; procurement of certificate of withdrawal required; contents of application. [Repealed].</p> <p>29A-301.78. Foreign corporations — Filing of application for withdrawal. [Repealed].</p> <p>29A-301.79. Foreign corporations — Revocation of certificate of authority. [Repealed].</p> <p>29A-301.80. Foreign corporations — Issuance of certificate of revocation. [Repealed].</p> <p>29A-301.81. Foreign corporations — Application on effective date of subchapter. [Repealed].</p> <p>29A-301.82. Foreign corporations — Conducting affairs without certificate of</p> | <p>Sec.</p> <p>authority; validity of contracts or corporate acts not impaired; liabilities. [Repealed].</p> <p>29A-301.83. Two-year report of domestic and foreign corporations — Contents. [Repealed].</p> <p>29A-301.84. Two-year report of domestic and foreign corporations — Procedure for filing. [Repealed].</p> <p>29A-301.85. Two-year report of domestic and foreign corporations — Effect of failure to pay or file. [Repealed].</p> <p>29A-301.86. Proclamation of revocation; effect of publication. [Repealed].</p> <p>29A-301.87. Penalty for conducting affairs after issuance of proclamation. [Repealed].</p> <p>29A-301.88. Correction of error in proclamation. [Repealed].</p> <p>29A-301.89. Proclaimed corporation — Reservation of name. [Repealed].</p> <p>29A-301.90. Proclaimed corporation — Reinstatement; corporate name. [Repealed].</p> <p>29A-301.91. Penalties for failure to file 2-year report.. [Repealed].</p> <p>29A-301.92. Fees and charges. [Repealed].</p> <p>29A-301.93. Duties and functions of Mayor. [Repealed].</p> <p>29A-301.94. Appeal to court from Mayor. [Repealed].</p> <p>29A-301.95. Certificates and certified copies to be received in evidence. [Repealed].</p> <p>29A-301.96. Forms to be furnished by Mayor. [Repealed].</p> <p>29A-301.97. Voting requirements. [Repealed].</p> <p>29A-301.98. Waiver of notice. [Repealed].</p> <p>29A-301.99. Action by key members or directors without meeting; written consent required. [Repealed].</p> <p>29A-301.100. Unauthorized assumption of corporate powers. [Repealed].</p> <p>29A-301.101. Acceptance of subchapter — Procedure; vote required for approval; adoption by board of directors. [Repealed].</p> <p>29A-301.102. Acceptance of subchapter — Statement of election; contents. [Repealed].</p> <p>29A-301.103. Acceptance of subchapter — Procedure for filing of statement of election. [Repealed].</p> <p>29A-301.104. Acceptance of subchapter — Effect of certificate of acceptance. [Repealed].</p> <p>29A-301.105. Actions to be in name of District of Columbia; "Corporation Counsel" defined; adjudication of civil infractions. [Repealed].</p> <p>29A-301.106. Right of repeal reserved. [Repealed].</p> |
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§ 29A-301.01

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29A-301.107. Subchapter not to affect Internal Revenue Code of 1954. [Repealed].

29A-301.108. Effect of invalidity of part of subchapter. [Repealed].

29A-301.109. Penalty for false statement. [Repealed].

29A-301.110. Effective date. [Repealed].

29A-301.111. Appropriation of funds. [Repealed].

29A-301.112. Exemption of government agencies from fees levied for Mayor as registered agent. [Repealed].

29A-301.113. Immunity from civil liability for

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a volunteer of the corporation. [Repealed].

29A-301.114. Limited liability for an employee of the corporation. [Repealed].

Subchapter II. Private Foundations. [Repealed]

29A-321.01. Corporation treated as tax-exempt private foundation; provisions deemed contained in governing instrument; amendment of governing instrument. [Repealed].

Subchapter I. General. [Repealed].

§ 29A-301.01. Short title. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 265, Pub. L. 87-569, § 1; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.01.

1981 Ed., § 29-501.

1973 Ed., § 29-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.02. Definitions. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 266, Pub. L. 87-569, § 2; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(e)(1); July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.02.

1981 Ed., § 29-502.

1973 Ed., § 29-1002.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.03. Applicability. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 267, Pub. L. 85-569, § 3; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.03.

1981 Ed., § 29-503.

1973 Ed., § 29-1003.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.04. Purposes for corporate organization. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 267, Pub. L. 87-569, § 4; Apr. 13, 1999, D.C. Law 12-217, § 3(a), 46 DCR 284; June 12, 2007, D.C. Law 17-4, § 3(a), 54 DCR 4085; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.04.

1981 Ed., § 29-504.

1973 Ed., § 29-1004.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(a) of the Cooperative Association Temporary Amendment Act of 1996 (D.C. Law 11-265, April 25, 1997, law notification 43 DCR 4355).

Emergency legislation. — For temporary amendment of section, see § 3(a) of the Cooperative Association Emergency Amendment Act of 1996 (D.C. Act 11-483, January 13, 1997, 44 DCR 626), and see § 3(a) of the Cooperative Association Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-59, March 31, 1997, 44 DCR 2235).

For temporary amendment of section, see § 3 of the Cooperative Association Second Emergency Amendment Act of 1997 (D.C. Act 12-203, December 2, 1997, 44 DCR 7498).

Legislative history of Law 12-217. — Law 12-217, the “Cooperative Association Amend-

ment Act of 1998,” was introduced in Council and assigned Bill No. 12-384, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 9, 1998, it was assigned Act No. 12-532 and transmitted to both Houses of Congress for its review. D.C. Law 12-217 became effective on April 13, 1999.

Legislative history of Law 17-4. — Law 17-4, the “Nonprofit Organizations Oversight Improvement Amendment Act of 2007,” was introduced in Council and assigned Bill No. 17-53 which was referred to Committee on the Public Safety and Judiciary. The Bill was adopted on first and second readings on March 6, 2007, and April 3, 2007, respectively. Signed by the Mayor on April 19, 2007, it was assigned Act No. 17-33 and transmitted to both Houses of Congress for its review. D.C. Law 17-4 became effective on June 12, 2007.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.05. General powers. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 267, Pub. L. 87-569, § 5; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.05.

1981 Ed., § 29-505.

1973 Ed., § 29-1005.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.06. Defense of ultra vires. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 269, Pub. L. 87-569, § 6; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.06.

1981 Ed., § 29-506.

1973 Ed., § 29-1006.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.07

CORPORATIONS. [REPEALED]

§ 29A-301.07. Corporate name. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 269, Pub. L. 87-569, § 7; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.07.
1981 Ed., § 29-507.
1973 Ed., § 29-1007.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.08. Reserved name; transferability of right to exclusive use. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 269, Pub. L. 87-569, § 8; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.08.
1981 Ed., § 29-508.
1973 Ed., § 29-1008.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.09. Registered office and registered agent. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 270, Pub. L. 87-569, § 9; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.09.
1981 Ed., § 29-509.
1973 Ed., § 29-1009.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.10. Change of registered office or registered agent. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 270, Pub. L. 87-569, § 10; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.10.
1981 Ed., § 29-510.
1973 Ed., § 29-1010.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.11. Registered agent for service. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 271, Pub. L. 87-569, § 11; Mar. 14, 1984, D.C. Law 5-64, § 3(a), 31 DCR 195; June 5, 2003, D.C. Law 14-307, § 1604(a), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.11.

1981 Ed., § 29-511.

1973 Ed., § 29-1011.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1604(a) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1604(a) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1604(a) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 5-64. — Law 5-64, the “Mayoral Agent for Service of Process Fee Increase Act of 1983,” was introduced in Council and assigned Bill No. 5-91, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 20, 1983, and January 3, 1984, respectively. Signed by the Mayor on January 11, 1984, it was assigned Act No. 5-97 and transmitted to both Houses of Congress for its review.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.12. Members. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 271, Pub. L. 87-569, § 12; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.12.

1981 Ed., § 29-512.

1973 Ed., § 29-1012.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.13. Bylaws. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 271, Pub. L. 87-569, § 13; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.13.

1981 Ed., § 29-513.

1973 Ed., § 29-1013.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.14. Meetings of members — Annual and special. [Repealed].

Repealed.

§ 29A-301.15

CORPORATIONS. [REPEALED]

(Aug. 6, 1962, 76 Stat. 272, Pub. L. 87-569, § 14; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.14.

1981 Ed., § 29-514.

1973 Ed., § 29-1014.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.15. Meetings of members — Notice. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 272, Pub. L. 87-569, § 15; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.15.

1981 Ed., § 29-515.

1973 Ed., § 29-1015.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.16. Voting. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 272, Pub. L. 87-569, § 16; Apr. 3, 2001, D.C. Law 13-250, § 2(a), 48 DCR 665; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.16.

1981 Ed., § 29-516.

1973 Ed., § 29-1016.

Legislative history of Law 13-250. — Law 13-250, the “Nonprofit Corporation Voting Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-357, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted

on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 22, 2000, it was assigned Act No. 13-537 and transmitted to both Houses of Congress for its review. D.C. Law 13-250 became effective on April 3, 2001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.17. Quorum. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 272, Pub. L. 87-569, § 17; Apr. 3, 2001, D.C. Law 13-250, § 2(b), 48 DCR 665; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.17.

1981 Ed., § 29-517.

1973 Ed., § 29-1017.

Legislative history of Law 13-250. — For

D.C. Law 13-250, see notes following § 29A-301.16.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.18. Board of directors — Qualifications. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 273, Pub. L. 87-569, § 18; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.18.

1981 Ed., § 29-518.

1973 Ed., § 29-1018.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.19. Board of directors — Number; election; classification; and removal. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 273, Pub. L. 87-569, § 19; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.19.

1981 Ed., § 29-519.

1973 Ed., § 29-1019.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.20. Board of directors — Vacancies. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 274, Pub. L. 87-569, § 20; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.20.

1981 Ed., § 29-520.

1973 Ed., § 29-1020.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.21. Board of directors — Quorum. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 274, Pub. L. 87-569, § 21; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.21.

1981 Ed., § 29-521.

1973 Ed., § 29-1021.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.22. Board of directors — Designation or appointment of committees; authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 274, Pub. L. 87-569, § 22 July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

§ 29A-301.23

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-301.22.
1981 Ed., § 29-522.
1973 Ed., § 29-1022.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.23. Board of directors — Meetings. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 274, Pub. L. 87-569, § 23; Aug. 1, 1981, D.C. Law 4-24, § 2, 28 DCR 2618; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.23.
1981 Ed., § 29-523.
1973 Ed., § 29-1023.

Legislative history of Law 4-24. — Law 4-24, the “District of Columbia Nonprofit Corporation Act and Business Corporation Act Amendment Act of 1981,” was introduced in Council and assigned Bill No. 4-60, which was

referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on May 5, 1981, and May 19, 1981, respectively. Signed by the Mayor on June 5, 1981, it was assigned Act No. 4-45 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.24. Officers — Appointment or election; tenure of office; authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 275, Pub. L. 87-569, § 24; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.24.
1981 Ed., § 29-524.
1973 Ed., § 29-1024.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.25. Officers — Removal. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 275, Pub. L. 87-569, § 25; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.25.
1981 Ed., § 29-525.
1973 Ed., § 29-1025.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.26. Books and records; right of inspection. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 275, Pub. L. 87-569, § 26; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.26.
 1981 Ed., § 29-526.
 1973 Ed., § 29-1026.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.27. Shares of stock and dividends prohibited. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 275, Pub. L. 87-569, § 27; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.27.
 1981 Ed., § 29-527.
 1973 Ed., § 29-1027.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.28. Loans to directors and officers prohibited. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 275, Pub. L. 87-569, § 28; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.28.
 1981 Ed., § 29-528.
 1973 Ed., § 29-1028.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.29. Incorporators. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 276, Pub. L. 87-569, § 29; Feb. 24, 1987, D.C. Law 6-192, § 24, 33 DCR 7836; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.29.
 1981 Ed., § 29-529.
 1973 Ed., § 29-1029.

second readings on November 5, 1986 and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-192. — Law 6-192, the “Technical Amendments Act of 1986,” was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.30. Articles of incorporation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 276, Pub. L. 87-569, § 30; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

§ 29A-301.31

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-301.30.
1981 Ed., § 29-530.
1973 Ed., § 29-1030.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.31. Filing of articles of incorporation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 276, Pub. L. 87-569, § 31; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.31.
1981 Ed., § 29-532.
1973 Ed., § 29-1031.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.32. Effect of issuance of certificate of incorporation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 277, Pub. L. 87-569, § 32; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.32.
1981 Ed., § 29-533.
1973 Ed., § 29-1032.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.33. Organization meetings; purpose; notice. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 277, Pub. L. 87-569, § 33; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.33.
1981 Ed., § 29-534.
1973 Ed., § 29-1033.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.34. Articles of incorporation — Right to amend. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 277, Pub. L. 87-569, § 34; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.34.

1981 Ed., § 29-535.
1973 Ed., § 29-1034.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.35. Articles of incorporation — Procedure to amend. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 277, Pub. L. 87-569, § 35; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.35.
1981 Ed., § 29-536.
1973 Ed., § 29-1035.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.36. Articles of amendment — Contents; vote required for approval. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 278, Pub. L. 87-569, § 36; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.36.
1981 Ed., § 29-537.
1973 Ed., § 29-1036.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.37. Articles of amendment — Filing. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 278, Pub. L. 87-569, § 37; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.37.
1981 Ed., § 29-538.
1973 Ed., § 29-1037.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.38. Effect of certificate of amendment. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 278, Pub. L. 87-569, § 38; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.38.
1981 Ed., § 29-539.
1973 Ed., § 29-1038.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.39. Procedure for merger. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 279, Pub. L. 87-569, § 39; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.39.
1981 Ed., § 29-540.
1973 Ed., § 29-1039.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.40. Procedure for consolidation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 279, Pub. L. 87-569, § 40; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.40.
1981 Ed., § 29-541.
1973 Ed., § 29-1040.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.41. Merger or consolidation — Procedure for approval. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 279, Pub. L. 87-569, § 41; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.41.
1981 Ed., § 29-542.
1973 Ed., § 29-1041.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.42. Merger or consolidation — Contents of articles. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 280, Pub. L. 87-569, § 42; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.42.
1981 Ed., § 29-543.
1973 Ed., § 29-1042.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.43. Merger or consolidation — Effective date. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 280, Pub. L. 87-569, § 43; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.43.

1981 Ed., § 29-544.

1973 Ed., § 29-1043.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.44. Merger or consolidation — Effect; surviving or new corporation; rights, privileges, powers, immunities, duties and liabilities. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 280, Pub. L. 87-569, § 44; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.44.

1981 Ed., § 29-545.

1973 Ed., § 29-1044.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.45. Merger or consolidation — Domestic and foreign corporations. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 281, Pub. L. 87-569, § 45; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.45.

1981 Ed., § 29-546.

1973 Ed., § 29-1045.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.46. Sale, lease, exchange, or mortgage of assets. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 282, Pub. L. 87-569, § 46; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.46.

1981 Ed., § 29-547.

1973 Ed., § 29-1046.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.47. Voluntary dissolution — Notice; vote required for approval. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 283, Pub. L. 87-569, § 47; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.47.
1981 Ed., § 29-548.
1973 Ed., § 29-1047.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.48. Voluntary dissolution — Distribution of assets. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 283, Pub. L. 87-569, § 48; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.48.
1981 Ed., § 29-549.
1973 Ed., § 29-1048.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.49. Voluntary dissolution — Plan of distribution. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 284, Pub. L. 87-569, § 49; Mar. 14, 2007, D.C. Law 16-268, § 2(a), 54 DCR 833; Mar. 25, 2009, D.C. Law 17-353, § 160(a)(1), 56 DCR 1117; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.49.
1981 Ed., § 29-550.
1973 Ed., § 29-1049.

Legislative history of Law 16-268. — Law 16-268, the “Public Charter School Assets and Facilities Preservation Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-624, which was referred to Committee on Education, Libraries and Recreation. The Bill was adopted on first and second readings on December 6, 2006, and December 19, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-624 and transmitted to both Houses of Congress for its review. D.C. Law 16-268 became effective on March 14, 2007.

Legislative history of Law 17-353. — Law 17-353, the “Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-994 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15, 2009, it was assigned Act No. 17-687 and transmitted to both Houses of Congress for its review. D.C. Law 17-353 became effective on March 25, 2009.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.50. Voluntary dissolution — Revocation of proceedings; notice; vote required for approval. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 284, Pub. L. 87-569, § 50; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.50.
1981 Ed., § 29-551.
1973 Ed., § 29-1050.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.51. Articles of dissolution — Contents. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 285, Pub. L. 87-569, § 51; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.51.
1981 Ed., § 29-552.
1973 Ed., § 29-1051.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.52. Articles of dissolution — Procedure for filing. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 285, Pub. L. 87-569, § 52; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.52.
1981 Ed., § 29-553.
1973 Ed., § 29-1052.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.53. Involuntary dissolution. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 286, Pub. L. 87-569, § 53; Mar. 14, 2007, D.C. Law 16-268, § 2(b), 54 DCR 833; June 12, 2007, D.C. Law 17-4, § 3(b), 54 DCR 4085; Mar. 25, 2009, D.C. Law 17-353, § 214, 56 DCR 1117; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.53.
1981 Ed., § 29-554.
1973 Ed., § 29-1053.

Legislative history of Law 17-353. — For Law 17-353, see notes following § 29A-301.49.

Legislative history of Law 16-268. — For Law 16-268, see notes following § 29A-301.49.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 17-4. — For Law 17-4, see notes under § 29A-301.04.

§ 29A-301.54. Venue and process. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 286, Pub. L. 87-569, § 54; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.54.
1981 Ed., § 29-555.
1973 Ed., § 29-1054.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.55. Liquidation proceedings — Jurisdiction of court. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 287, Pub. L. 87-569, § 55; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(e) (2); July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.55.
1981 Ed., § 29-556.
1973 Ed., § 29-1055.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.56. Liquidation proceedings — Procedure; hearing; authority of receivers; distribution of assets. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 287, Pub. L. 87-569, § 56; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.56.
1981 Ed., § 29-557.
1973 Ed., § 29-1056.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.57. Liquidation proceedings — Qualification of receivers. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 288, Pub. L. 87-569, § 57; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.57.
1981 Ed., § 29-558.
1973 Ed., § 29-1057.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.58. Liquidation proceedings — Filing of claims. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 288, Pub. L. 87-569, § 58; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.58.
1981 Ed., § 29-559.
1973 Ed., § 29-1058.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.59. Liquidation proceedings — Discontinuance. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 289, Pub. L. 87-569, § 59; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.59.
1981 Ed., § 29-560.
1973 Ed., § 29-1059.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.60. Liquidation proceedings — Decree of dissolution. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 289, Pub. L. 87-569, § 60; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.60.
1981 Ed., § 29-561.
1973 Ed., § 29-1060.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.61. Liquidation proceedings — Filing of decree of dissolution. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 289, Pub. L. 87-569, § 61; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.61.
1981 Ed., § 29-562.
1973 Ed., § 29-1061.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.62. Dissolution — Distribution of assets; deposits and registry of court. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 289, Pub. L. 87-569, § 62; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.62.

1981 Ed., § 29-563.
1973 Ed., § 29-1062.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.63. Dissolution — Survival of remedy. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 289, Pub. L. 87-569, § 63; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.63.
1981 Ed., § 29-564.
1973 Ed., § 29-1063.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.64. Foreign corporations — Admission to conduct affairs in District. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 290, Pub. L. 87-569, § 64; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.64.
1981 Ed., § 29-565.
1973 Ed., § 29-1064.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.65. Foreign corporations — Powers authorized. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 290, Pub. L. 87-569, § 65; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.65.
1981 Ed., § 29-566.
1973 Ed., § 29-1065.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.66. Foreign corporations — Corporate name. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 290, Pub. L. 87-569, § 66; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.66.
1981 Ed., § 29-567.
1973 Ed., § 29-1066.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.67. Foreign corporations — Change of corporate name. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 291, Pub. L. 87-569, § 67; July 2, 2011, D.C. Law 18-378, § 3(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.67.
1981 Ed., § 29-568.
1973 Ed., § 29-1067.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.68. Foreign corporations — Application for certificate of authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 291, Pub. L. 87-569, § 68; July 2, 2011, D.C. Law 18-378, § 3(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.68.
1981 Ed., § 29-569.
1973 Ed., § 29-1068.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.69. Foreign corporations — Filing of application for certificate of authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 291, Pub. L. 87-569, § 69; July 2, 2011, D.C. Law 18-378, § 3(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.69.
1981 Ed., § 29-570.
1973 Ed., § 29-1069.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.70. Foreign corporations — Effect of certificate of authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 292, Pub. L. 87-569, § 70; July 2, 2011, D.C. Law 18-378, § 3(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.70.
1981 Ed., § 29-571.
1973 Ed., § 29-1070.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.71. Foreign corporations — Registered office and registered agent. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 292, Pub. L. 87-569, § 71; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.71.
1981 Ed., § 29-572.
1973 Ed., § 29-1071.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.72. Foreign corporations — Change of registered office or registered agent. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 292, Pub. L. 87-569, § 72; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.72.
1981 Ed., § 29-573.
1973 Ed., § 29-1072.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.73. Foreign corporations — Service of process. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 293, Pub. L. 87-569, § 73; Mar. 14, 1984, D.C. Law 5-64, § 3(b), 31 DCR 195; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.73.
1981 Ed., § 29-574.
1973 Ed., § 29-1073.

ical and Statutory Notes following § 29A-301.11.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Legislative history of Law 5-64. — For legislative history of D.C. Law 5-64, see Histor-

§ 29A-301.74. Foreign corporations — Amendment to articles of incorporation; filing. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 294, Pub. L. 87-569, § 74; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.74.
1981 Ed., § 29-575.
1973 Ed., § 29-1074.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.75. Foreign corporations — Merger. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 294, Pub. L. 87-569, § 75; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.75.
1981 Ed., § 29-576.
1973 Ed., § 29-1075.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.76. Foreign corporations — Amended certificate of authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 294, Pub. L. 87-569, § 76; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.76.
1981 Ed., § 29-577.
1973 Ed., § 29-1076.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.77. Foreign corporations — Withdrawal; procurement of certificate of withdrawal required; contents of application. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 295, Pub. L. 87-569, § 77; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.77.
1981 Ed., § 29-578.
1973 Ed., § 29-1077.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.78. Foreign corporations — Filing of application for withdrawal. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 295, Pub. L. 87-569, § 78; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.78.
1981 Ed., § 29-579.
1973 Ed., § 29-1078.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.79. Foreign corporations — Revocation of certificate of authority. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 295, Pub. L. 87-569, § 79; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.79.
1981 Ed., § 29-580.
1973 Ed., § 29-1079.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.80. Foreign corporations — Issuance of certificate of revocation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 296, Pub. L. 87-569, § 80; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.80.
1981 Ed., § 29-581.
1973 Ed., § 29-1080.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.81. Foreign corporations — Application on effective date of subchapter. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 296, Pub. L. 87-569, § 81; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.81.
1981 Ed., § 29-582.
1973 Ed., § 29-1081.

Effective date. — Section 110 of the Act of Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, provided that this chapter would take effect 180 days after Aug. 6, 1962.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.82. Foreign corporations — Conducting affairs without certificate of authority; validity of contracts or corporate acts not impaired; liabilities. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 297, Pub. L. 87-569, § 82; Oct. 5, 1985, D.C. Law 6-42, § 431(a), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.82.

1981 Ed., § 29-583.
1973 Ed., § 29-1082.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June

25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.83. Two-year report of domestic and foreign corporations — Contents. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 297, Pub. L. 87-569, § 83; Sept. 8, 1995, D.C. Law 11-42, § 2(a), 42 DCR 3285; Apr. 9, 1997, D.C. Law 11-181, § 2(a), 43 DCR 4503; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.83.

1981 Ed., § 29-584.

1973 Ed., § 29-1083.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 11-42. — Law 11-42, the “Nonprofit Corporation Five-Year Report Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-52, which was referred to the Committee on Con-

sumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 2, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-77 and transmitted to both Houses of Congress for its review. D.C. Law 11-42 became effective on September 8, 1995.

Legislative history of Law 11-181. — Law 11-181, the “Nonprofit Corporation Two-Year Report Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-584, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 22, 1996, it was assigned Act No. 11-332 and transmitted to both Houses of Congress for its review. D.C. Law 11-181 became effective on April 9, 1997.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor’s notes. — Preparation and payment of appropriate taxes: Section 2(g) of D.C. Law 11-181 provided that nothing in that act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal tax, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-301.84. Two-year report of domestic and foreign corporations — Procedure for filing. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 298, Pub. L. 87-569, § 84; Sept. 8, 1995, D.C. Law 11-42, § 2(b), 42 DCR 3285; Apr. 9, 1997, D.C. Law 11-181, § 2(b), 43 DCR 4503; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.84.

1981 Ed., § 29-585.

1973 Ed., § 29-1084.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see §§ 2(c), 3(a) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary amendment of section, see § 3(a) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125) and § 3(a) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of

1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 11-181. — For legislative history of D.C. Law 11-181, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(g) of D.C. Law 11-181 provided that nothing in that act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal tax, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-301.85. Two-year report of domestic and foreign corporations — Effect of failure to pay or file. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 298, Pub. L. 87-569, § 85; Sept. 8, 1995, D.C. Law 11-42, § 2(c), 42 DCR 3285; Apr. 18, 1996, D.C. Law 11-110, § 30, 42 DCR 530; July 2, 2011, D.C. Law 18-378, § 3(1), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.85.

1981 Ed., § 29-586.

1973 Ed., § 29-1085.

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned

Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.86. Proclamation of revocation; effect of publication. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 298, Pub. L. 87-569, § 86; Mar. 16, 1982, D.C. Law 4-81, § 4, 29 DCR 156; Sept. 8, 1995, D.C. Law 11-42, § 2(d), 42 DCR 3285; Apr. 9,

1997, D.C. Law 11-181, § 2(c), 43 DCR 4503; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.86.

1981 Ed., § 29-587.

1973 Ed., § 29-1086.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 4-81. — Law 4-81, the “Newspaper Publication Act of 1981,”

was introduced in Council and assigned Bill No. 4-323, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on November 10, 1981, and November 24, 1981, respectively. Signed by the Mayor on December 21, 1981, it was assigned Act No. 4-135 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 11-181. — For legislative history of D.C. Law 11-181, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor’s notes. — Preparation and payment of appropriate taxes: Section 2(g) of D.C. Law 11-181 provided that nothing in that act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal tax, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-301.87. Penalty for conducting affairs after issuance of proclamation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 299, Pub. L. 87-569, § 87; Oct. 5, 1985, D.C. Law 6-42, § 431(b), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.87.

1981 Ed., § 29-588.

1973 Ed., § 29-1087.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical

and Statutory Notes following § 29A-301.82.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.88. Correction of error in proclamation. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 299, Pub. L. 87-569, § 88; Sept. 8, 1995, D.C. Law 11-42, § 2(e), 42 DCR 3285; Apr. 9, 1997, D.C. Law 11-181, § 2(d), 43 DCR 4503; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.88.

1981 Ed., § 29-589.

1973 Ed., § 29-1088.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual

Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 11-181. — For legislative history of D.C. Law 11-181, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(g) of D.C. Law 11-181 provided that nothing in that act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal tax, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-301.89. Proclaimed corporation — Reservation of name. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 299, Pub. L. 87-569, § 89; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.89.

1981 Ed., § 29-590.

1973 Ed., § 29-1089.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.90. Proclaimed corporation — Reinstatement; corporate name. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 300, Pub. L. 87-569, § 90; Sept. 8, 1995, D.C. Law 11-42, § 2(f), 42 DCR 3285; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.90.

1981 Ed., § 29-591.

1973 Ed., § 29-1090.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

For temporary (225 day) amendment of sec-

tion, see § 2 of the Reinstated Nonprofit Corporation Contract Ratification Temporary Amendment Act of 2009 (D.C. Law 18-90, December 17, 2009, law notification 57 DCR 1162).

Emergency legislation. — For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit

Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary (90 day) amendment of section, see § 2 of Reinstated Nonprofit Corpora-

tion Contract Ratification Emergency Amendment Act of 2009 (D.C. Act 18-196, October 10, 2009, 56 DCR 8128).

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.91. Penalties for failure to file 2-year report.. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 300, Pub. L. 87-569, § 91; Sept. 8, 1995, D.C. Law 11-42, § 2(g), 42 DCR 3285; Apr. 9, 1997, D.C. Law 11-181, § 2(e), 43 DCR 4503; June 5, 2003, D.C. Law 14-307, § 1604(b), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.91.

1981 Ed., § 29-592.

1973 Ed., § 29-1091.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

Emergency legislation. — For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary (90 day) amendment of section, see § 1604(b) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1604(b) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1604(b) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 11-181. — For legislative history of D.C. Law 11-181, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Preparation and payment of appropriate taxes: Section 2(g) of D.C. Law 11-181 provided that nothing in that act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal tax, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-301.92. Fees and charges. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 300, Pub. L. 87-569, § 92; Sept. 26, 1984, D.C. Law 5-113, § 101, 31 DCR 3974; Sept. 8, 1995, D.C. Law 11-42, § 2(h), 42 DCR 3285; Apr. 9, 1997, D.C. Law 11-181, § 2(f), 43 DCR 4503; June 5, 2003, D.C. Law 14-307, § 1604(c), 49 DCR 11664; Mar. 3, 2010, D.C. Law 18-111, § 2043, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 2025, 57 DCR 6242; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.92.

1981 Ed., § 29-593.

1973 Ed., § 29-1092.

Temporary Amendment of Section. —

For temporary (225 day) amendment of section, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Temporary Amendment Act of 1996 (D.C. Law 11-150, July 20, 1996, law notification 44 DCR 2863).

For temporary (225 day) amendment of section, see § 205 of the Fiscal Year 2010 Balanced Budget Support Temporary Act of 2010 (D.C. Law 18-222, September 24, 2010, law notification 57 DCR 9859).

Emergency legislation. — For temporary suspension in section of references to 5-year reporting, filing, or payment of fees requirements until after December 31, 1996, at which time the 1-year or annual requirements shall be in effect and the annual report fee shall be \$25, see § 3(b) of the Business and Nonprofit Corporation Five-Year Report Suspension Emergency Amendment Act of 1996 (D.C. Act 11-247, April 11, 1996, 43 DCR 2125).

For temporary suspension of the 5-year reporting provision, see § 3(b) of the Business and Nonprofit Corporation Five-Year Annual Report Suspension Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-307, August 1, 1996, 43 DCR 4208).

For temporary (90 day) amendment of section, see § 1604(c) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1604(c) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1604(c) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2043 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2043 of Fiscal Year Budget Support

Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 205 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 205 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 2025 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 5-113. — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984, and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-42. — For legislative history of D.C. Law 11-42, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 11-181. — For legislative history of D.C. Law 11-181, see Historical and Statutory Notes following § 29A-301.83.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 29A-101.121.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 29A-101.121.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor’s notes. — Preparation and payment of appropriate taxes: Section 2(g) of D.C. Law 11-181 provided that nothing in that act shall be construed or interpreted as repealing or affecting any requirement of a domestic or foreign corporation to prepare and submit annual tax forms, or to pay any appropriate District or federal tax, as provided in accordance with the laws of the District of Columbia or the United States.

§ 29A-301.93. Duties and functions of Mayor. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 301, Pub. L. 87-569, § 93; Mar. 3, 1979, D.C. Law 2-139, § 3205(hh), 25 DCR 5740; Oct. 5, 1985, D.C. Law 6-42, § 431(c), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.93.

1981 Ed., § 29-594.

1973 Ed., § 29-1093.

Legislative history of Law 2-139. — Law 2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October

17, 1978, and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-301.82.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.94. Appeal to court from Mayor. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 302, Pub. L. 87-569, § 94; July 29, 1970, 84 Stat. 589, Pub. L. 91-358, title I, § 168(e)(3); July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.94.

1981 Ed., § 29-595.

1973 Ed., § 29-1094.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.95. Certificates and certified copies to be received in evidence. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 302, Pub. L. 87-569, § 95; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.95.

1981 Ed., § 29-596.

1973 Ed., § 29-1095.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.96. Forms to be furnished by Mayor. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 302, Pub. L. 87-569, § 96; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.96.

1981 Ed., § 29-597.

1973 Ed., § 29-1096.

§ 29A-301.97

CORPORATIONS. [REPEALED]

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.97. Voting requirements. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 303, Pub. L. 87-569, § 97; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.97.

1981 Ed., § 29-598.

1973 Ed., § 29-1097.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.98. Waiver of notice. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 303, Pub. L. 87-569, § 98; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.98.

1981 Ed., § 29-599.

1973 Ed., § 29-1098.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.99. Action by key members or directors without meeting; written consent required. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 303, Pub. L. 87-569, § 99; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.99.

1981 Ed., § 29-599.1.

1973 Ed., § 29-1099.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.100. Unauthorized assumption of corporate powers. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 303, Pub. L. 87-569, § 100; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.100.

1981 Ed., § 29-599.2.

1973 Ed., § 29-1099a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.101. Acceptance of subchapter — Procedure; vote required for approval; adoption by board of directors. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 303, Pub. L. 87-569, § 101; Apr. 9, 1997, D.C. Law 11-255, § 29, 44 DCR 1271; Apr. 13, 1999, D.C. Law 12-217, § 3(b), 46 DCR 284; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.101.

1981 Ed., § 29-599.3.

1973 Ed., § 29-1099b.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 3(b) of the Cooperative Association Temporary Amendment Act of 1996 (D.C. Law 11-265, April 25, 1997, law notification 43 DCR 4355).

Emergency legislation. — For temporary amendment of section, see § 3(b) of the Cooperative Association Emergency Amendment Act of 1996 (D.C. Act 11-483, January 13, 1997, 44 DCR 626), § 3(b) of the Cooperative Association Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-59, March 31, 1997, 44 DCR 2235), and § 3 of the Cooperative Association Second Emergency Amendment Act of 1997 (D.C. 12-203, December 2, 1997, 44 DCR 7498).

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act

of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 12-217. — Law 12-217, the “Cooperative Association Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-384, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 9, 1998, it was assigned Act No. 12-532 and transmitted to both Houses of Congress for its review. D.C. Law 12-217 became effective on April 13, 1999.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.102. Acceptance of subchapter — Statement of election; contents. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 304, Pub. L. 87-569, § 102; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.102.

1981 Ed., § 29-599.4.

1973 Ed., § 29-1099c.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.103. Acceptance of subchapter — Procedure for filing of statement of election. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 304, Pub. L. 87-569, § 103; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

§ 29A-301.104

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-301.103.
1981 Ed., § 29-599.5.
1973 Ed., § 29-1099d.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.104. Acceptance of subchapter — Effect of certificate of acceptance. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 305, Pub. L. 87-569, § 104; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.104.
1981 Ed., § 29-599.6.
1973 Ed., § 29-1099e.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.105. Actions to be in name of District of Columbia; “Corporation Counsel” defined; adjudication of civil infractions. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 305, Pub. L. 87-569, § 105; Oct. 5, 1985, D.C. Law 6-42, § 431(d), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.105.
1981 Ed., § 29-599.7.
1973 Ed., § 29-1099f.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-301.82.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.106. Right of repeal reserved. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, § 106; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.106.
1981 Ed., § 29-599.8.
1973 Ed., § 29-1099g.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.107. Subchapter not to affect Internal Revenue Code of 1954. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, § 107; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.107.
 1981 Ed., § 29-599.9.
 1973 Ed., § 29-1099h.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.108. Effect of invalidity of part of subchapter. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, § 108; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.108.
 1981 Ed., § 29-599.10.
 1973 Ed., § 29-1099i.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.109. Penalty for false statement. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, § 109; Oct. 5, 1985, D.C. Law 6-42, § 431(e), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.109.
 1981 Ed., § 29-599.11.
 1973 Ed., § 29-1099j.

ical and Statutory Notes following § 29A-301.82.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Histor-

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.110. Effective date. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, § 110; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.110.
 1981 Ed., § 29-599.12.
 1973 Ed., § 29-1099k.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.111. Appropriation of funds. [Repealed].

Repealed.

(Aug. 6, 1962, 76 Stat. 306, Pub. L. 87-569, § 111; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.111.
 1981 Ed., § 29-599.13.
 1973 Ed., § 29-1099l.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.112. Exemption of government agencies from fees levied for Mayor as registered agent. [Repealed].

Repealed.

(Aug. 6, 1962, Pub. L. 87-569, § 112, as added Mar. 14, 1984, D.C. Law 5-64, § 3(c), 31 DCR 195; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.112.

1981 Ed., § 29-599.14.

Legislative history of Law 5-64. — For legislative history of D.C. Law 5-64, see Histor-

ical and Statutory Notes following § 29A-301.11.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.113. Immunity from civil liability for a volunteer of the corporation. [Repealed].

Repealed.

(Aug. 6, 1962, Pub. L. 87-569, § 113, as added Mar. 17, 1993, D.C. Law 9-222, § 2, 40 DCR 587; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.113.

1981 Ed., § 29-599.15.

Legislative history of Law 9-222. — Law 9-222, the “District of Columbia Nonprofit Corporation Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-316, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on Decem-

ber 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on December 31, 1992, it was assigned Act No. 9-353 and transmitted to both Houses of Congress for its review. D.C. Law 9-222 became effective on March 17, 1993.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-301.114. Limited liability for an employee of the corporation. [Repealed].

Repealed.

(Aug. 6, 1962, Pub. L. 87-569, § 114, as added Mar. 17, 1993, D.C. Law 9-222, § 2, 40 DCR 587; July 2, 2011, D.C. Law 18-378, § 3(l), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-301.114.

1981 Ed., § 29-599.16.

Legislative history of Law 9-222. — For legislative history of D.C. Law 9-222, see His-

torical and Statutory Notes following § 29A-301.113.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

*Subchapter II. Private Foundations. [Repealed].***§ 29A-321.01. Corporation treated as tax-exempt private foundation; provisions deemed contained in governing instrument; amendment of governing instrument. [Repealed].**

Repealed.

(Dec. 6, 1971, 85 Stat. 496, Pub. L. 92-177, § 2; July 2, 2011, D.C. Law 18-378, § 3(m), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-321.01.
1981 Ed., § 29-531.
1973 Ed., § 29-1030a.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 4. PROFESSIONAL CORPORATIONS. [REPEALED].

Sec.

- 29A-401. Short title. [Repealed].
- 29A-402. Definitions. [Repealed].
- 29A-403. Applicability. [Repealed].
- 29A-404. Construction. [Repealed].
- 29A-405. Purpose for organization; powers authorized. [Repealed].
- 29A-406. Incorporation. [Repealed].
- 29A-407. Number of directors. [Repealed].
- 29A-408. Qualifications of shareholders, director, and officer; "officer" defined. [Repealed].
- 29A-409. Corporate name. [Repealed].
- 29A-410. Proxy prohibited. [Repealed].
- 29A-411. Professional relationship; liabilities. [Repealed].
- 29A-412. Transfer of shares. [Repealed].

Sec.

- 29A-413. Merger or consolidation restricted. [Repealed].
- 29A-414. Foreign professional corporations; requirement for admission to transact business in District; certificate of authority. [Repealed].
- 29A-415. Disqualified professional. [Repealed].
- 29A-416. Disposition of stock of disqualified, deceased, legally incompetent shareholder. [Repealed].
- 29A-417. Redemption price. [Repealed].
- 29A-418. Perpetual existence; dissolution. [Repealed].
- 29A-419. Annual report; contents. [Repealed].
- 29A-420. Penalty for noncompliance with chapter. [Repealed].
- 29A-421. [Repealed].

§ 29A-401. Short title. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 576, Pub. L. 92-180, § 1; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-401.
1981 Ed., § 29-601.
1973 Ed., § 29-1101.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-402. Definitions. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 576, Pub. L. 92-180, § 2; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-402.
1981 Ed., § 29-602.
1973 Ed., § 29-1102.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-403. Applicability. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 577, Pub. L. 92-180, § 3; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-403.
1981 Ed., § 29-603.
1973 Ed., § 29-1103.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-404. Construction. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 577, Pub. L. 92-180, § 4; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-404.
1981 Ed., § 29-604.
1973 Ed., § 29-1104.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-405. Purpose for organization; powers authorized. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 577, Pub. L. 92-180, § 5; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-406.
1981 Ed., § 29-605.
1973 Ed., § 29-1105.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-406. Incorporation. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 578, Pub. L. 92-180, § 6; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-406.
1981 Ed., § 29-606.
1973 Ed., § 29-1106.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-407. Number of directors. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 578, Pub. L. 92-180, § 7; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-407.
1981 Ed., § 29-607.
1973 Ed., § 29-1107.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-408. Qualifications of shareholders, director, and officer; “officer” defined. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 578, Pub. L. 92-180, § 8; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-408.
1981 Ed., § 29-608.
1973 Ed., § 29-1108.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-409. Corporate name. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 578, Pub. L. 92-180, § 9; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-409
1981 Ed., § 29-609.
1973 Ed., § 29-1109.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-410. Proxy prohibited. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 578, Pub. L. 92-180, § 10; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-410.
1981 Ed., § 29-610.
1973 Ed., § 29-1110.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-411. Professional relationship; liabilities. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 578, Pub. L. 92-180, § 11; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-411.
1981 Ed., § 29-611.
1973 Ed., § 29-1111.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-412. Transfer of shares. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 579, Pub. L. 92-180, § 12; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-412.
1981 Ed., § 29-612.
1973 Ed., § 29-1112.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-413. Merger or consolidation restricted. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 580, Pub. L. 92-180, § 13; July 23, 1994, D.C. Law 10-138, § 78, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-413.
1981 Ed., § 29-613.

1973 Ed., § 29-1113.
Legislative history of Law 10-138. — Law

10-138, the “Limited Liability Company Act of 1994,” was introduced in Council and assigned Bill No. 10-277, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on April 12, 1994, and May 3, 1994, respectively. Signed by the Mayor on May 18,

1994, it was assigned Act No. 10-243 and transmitted to both Houses of Congress for its review. D.C. Law 10-138 became effective on July 23, 1994.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-414. Foreign professional corporations; requirement for admission to transact business in District; certificate of authority. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 580, Pub. L. 92-180, § 14; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-414.
1981 Ed., § 29-614.
1973 Ed., § 29-1114.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-415. Disqualified professional. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 580, Pub. L. 92-180, § 15; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-415.
1981 Ed., § 29-615.
1973 Ed., § 29-1115.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-416. Disposition of stock of disqualified, deceased, legally incompetent shareholder. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 580, Pub. L. 92-180, § 16; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-416.
1981 Ed., § 29-616.
1973 Ed., § 29-1116.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-417. Redemption price. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 581, Pub. L. 92-180, § 17; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-417.
1981 Ed., § 29-617.
1973 Ed., § 29-1117.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-418. Perpetual existence; dissolution. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 582, Pub. L. 92-180, § 18; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 172.)

Prior Codifications. — 2001 Ed., § 29-418.
1981 Ed., § 29-618.
1973 Ed., § 29-1118.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-419. Annual report; contents. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 582, Pub. L. 92-180, § 19; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-419.
1981 Ed., § 29-619.
1973 Ed., § 29-1119.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-420. Penalty for noncompliance with chapter. [Repealed].

Repealed.

(Dec. 10, 1971, 85 Stat. 582, Pub. L. 92-180, § 20; Oct. 5, 1985, D.C. Law 6-42, § 425, 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(n), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-420.
1981 Ed., § 29-620.
1973 Ed., § 29-1120.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-421. Treatment of professional corporation as unincorporated business for purpose of franchise tax. [Repealed].

Repealed.

(Sept. 5, 1985, D.C. Law 6-16, § 2(a), 32 DCR 3578.)

Prior Codifications. — 2001 Ed., § 29-421.
1981 Ed., § 29-621.

Legislative history of Law 6-16. — Law 6-16, the “Professional Corporation Franchise Tax Amendments Act of 1985,” was introduced in Council and assigned Bill No. 6-101, which was referred to the Committee on Finance and

Revenue. The Bill was adopted on first and second readings on May 14, 1985, and May 28, 1985, respectively. Signed by the Mayor on June 10, 1985, it was assigned Act No. 6-31 and transmitted to both Houses of Congress for its review.

CHAPTER 5. FOREIGN TRADE ZONES. [TRANSFERRED].

Sec.

29A-501. Definitions. [Transferred].

29A-502. Authority to establish, operate, and maintain a foreign trade zone. [Transferred].

Sec.

29A-503. Licensing and taxation. [Transferred].

29A-504. Jurisdiction. [Transferred].

§ 29A-501. Definitions. [Transferred].

Transferred.

Editor's notes. — D.C. Law 11-28, §§ 2 through 5 were recodified as D.C. Code §§ 36-501 through 36-504. D.C. Law 11-28, §§ 2

through 5 were recodified as D.C. Code §§ 36-501 through 36-504.

§ 29A-502. Authority to establish, operate, and maintain a foreign trade zone. [Transferred].

Transferred.

Editor's notes. — D.C. Law 11-28, §§ 2 through 5 were recodified as D.C. Code §§ 36-501 through 36-504. D.C. Law 11-28, §§ 2

through 5 were recodified as D.C. Code §§ 36-501 through 36-504.

§ 29A-503. Licensing and taxation. [Transferred].

Transferred.

Editor's notes. — D.C. Law 11-28, §§ 2 through 5 were recodified as D.C. Code §§ 36-501 through 36-504. D.C. Law 11-28, §§ 2

through 5 were recodified as D.C. Code §§ 36-501 through 36-504.

§ 29A-504. Jurisdiction. [Transferred].

Transferred.

Editor's notes. — D.C. Law 11-28, §§ 2 through 5 were recodified as D.C. Code §§ 36-501 through 36-504. D.C. Law 11-28, §§ 2

through 5 were recodified as D.C. Code §§ 36-501 through 36-504.

CHAPTER 6. INSTITUTIONS OF LEARNING. [REPEALED].

Subchapter I. General. [Repealed]

Sec.

- 29A-601. Incorporation — Number; filing and recordation of certificate; content. [Repealed].
- 29A-602. Incorporation — Powers of body politic and corporate. [Repealed].
- 29A-603. Corporate powers. [Repealed].
- 29A-604. Property to be held for educational purposes. [Repealed].
- 29A-605. Funds — Application. [Repealed].
- 29A-606. Funds — Acceptance of donations, devises, or bequests for particular purposes. [Repealed].
- 29A-607. Land — Restriction on holdings. [Repealed].
- 29A-608. Land — Reversion of excess. [Repealed].
- 29A-609. Officers; powers and duties. [Repealed].
- 29A-610. Treasurer; bond required. [Repealed].
- 29A-611. Annual statement; filing and recordation; contents. [Repealed].
- 29A-612. Service of process against corporation. [Repealed].

Sec.

- 29A-613. Quo warranto. [Repealed].
- 29A-614. Incorporation fee. [Repealed].
- 29A-615. License to confer degrees — Issuance by Education Licensure Commission required. [Repealed].
- 29A-616. License to confer degrees — Application; filing and recordation; use of public school personnel authorized. [Repealed].
- 29A-617. License to confer degrees — Revocation of license; notice; hearing before Commission; review. [Repealed].
- 29A-618. Title of institution not to imply official connection with government of United States or District of Columbia. [Repealed].
- 29A-619. Penalties for conferral of degrees without licenses. [Repealed].

Subchapter II. Exemption from Usury Laws. [Repealed]

- 29A-631. Exemption of institutions of higher learning from usury law. [Repealed].

Subchapter I. General. [Repealed].

§ 29A-601. Incorporation — Number; filing and recordation of certificate; content. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1280, ch. 854, § 574; Apr. 9, 1997, D.C. Law 11-255, § 30, 44 DCR 1271; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-601. 1981 Ed., § 29-801. 1973 Ed., § 29-401.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on Novem-

ber 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-602. Incorporation — Powers of body politic and corporate. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 575; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-602.
1981 Ed., § 29-802.
1973 Ed., § 29-402.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-603. Corporate powers. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 576; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-603.
1981 Ed., § 29-803.
1973 Ed., § 29-403.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-604. Property to be held for educational purposes. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 577; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-604.
1981 Ed., § 29-804.
1973 Ed., § 29-404.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-605. Funds — Application. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 578; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-605.
1981 Ed., § 29-805.
1973 Ed., § 29-405.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-606. Funds — Acceptance of donations, devises, or bequests for particular purposes. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 579; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-606.
1981 Ed., § 29-806.
1973 Ed., § 29-406.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-607. Land — Restriction on holdings. [Repealed].

Repealed.

§ 29A-608

CORPORATIONS. [REPEALED]

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 580; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-607.
1981 Ed., § 29-807.
1973 Ed., § 29-407.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-608. Land — Reversion of excess. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 581; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-608.
1981 Ed., § 29-808.
1973 Ed., § 29-408.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-609. Officers; powers and duties. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 582; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-609.
1981 Ed., § 29-809.
1973 Ed., § 29-409.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-610. Treasurer; bond required. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1281, ch. 854, § 583; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-610.
1981 Ed., § 29-810.
1973 Ed., § 29-410.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-611. Annual statement; filing and recordation; contents. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 584; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-611.
1981 Ed., § 29-811.
1973 Ed., § 29-411.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-612. Service of process against corporation. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 585; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-612.
1981 Ed., § 29-812.
1973 Ed., § 29-412.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-613. Quo warranto. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 586; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 909, 991, ch. 646, §§ 1, 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(c)(1)(G); July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-613.
1981 Ed., § 29-813.
1973 Ed., 29-413.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-614. Incorporation fee. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 586a; Mar. 2, 1929, 45 Stat. 1503, ch. 523; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-614.
1981 Ed., § 29-814.
1973 Ed., § 29-414.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-615. License to confer degrees — Issuance by Education Licensure Commission required. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 586b; Mar. 2, 1929, 45 Stat. 1504, ch. 523; Nov. 7, 1966, 80 Stat. 1430, Pub. L. 89-791, title I, § 106; Apr. 6, 1977, D.C. Law 1-104, § 6(a)(1), 23 DCR 8734; Apr. 20, 1999, D.C. Law 12-261, § 2003(v)(1), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(t)(1), 50 DCR 6913; Oct. 20, 2005, D.C. Law 16-33, § 4004(b)(1), 52 DCR 7503; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-615.
1981 Ed., § 29-815.
1973 Ed., § 29-415.

Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(t)(1) of

For temporary (90 day) amendment of section, see § 4004(b)(1) of Fiscal Year 2006 Bud-

get Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 1-104. — Law 1-104, the “Education Licensure Commission Act of 1976,” was introduced in Council and assigned Bill No. 1-293, which was referred to the Committee on Higher Education/University of the District of Columbia. The Bill was adopted on first and second readings on September 15, 1976, and October 12, 1976, respectively. Approved without the signature of the Mayor on November 18, 1976, it was assigned Act No. 1-177 and transmitted to both Houses of Congress for its review.

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on

December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Legislative history of Law 15-38. — Law 15-38, the “Streamlining Regulation Act of 2003,” was introduced in Council and assigned Bill No. 15-19, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to both Houses of Congress for its review. D.C. Law 15-38 became effective on October 28, 2003.

Legislative history of Law 16-33. — For Law 16-33, see notes following § 38-1306.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-616. License to confer degrees — Application; filing and recordation; use of public school personnel authorized. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 586c; Mar. 2, 1929, 45 Stat. 1504, ch. 523; Nov. 7, 1966, 80 Stat. 1430, Pub. L. 89-791, title I, § 106; Apr. 6, 1977, D.C. Law 1-104, § 6(a)(2), 23 DCR 8734; Apr. 20, 1999, D.C. Law 12-261, § 2003(v)(2), 46 DCR 3142; Oct. 20, 2005, D.C. Law 16-33, § 4004(b)(2), 52 DCR 7503; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-616. 1981 Ed., § 29-816.

1973 Ed., § 29-416.

Emergency legislation. — For temporary (90 day) amendment of section, see § 4004(b)(2) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 1-104. — For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 29A-615.

Legislative history of Law 12-261. — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 29A-615.

Legislative history of Law 16-33. — For Law 16-33, see notes following § 38-1306.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-617. License to confer degrees — Revocation of license; notice; hearing before Commission; review. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 586d; Mar. 2, 1929, 45 Stat. 1504, ch. 523; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; Nov. 7, 1966, 80 Stat. 1430, Pub. L.

89-791, title I, § 106; July 29, 1970, 84 Stat. 582, Pub. L. 91-358, title I, § 163(a); Apr. 6, 1977, D.C. Law 1-104, § 6(a)(3), 23 DCR 8734; Oct. 20, 2005, D.C. Law 16-33, § 4004(b)(3), 52 DCR 7503; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-617.
1981 Ed., § 29-817.
1973 Ed., § 29-417.

Emergency legislation. — For temporary (90 day) amendment of section, see § 4004(b)(3) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 1-104. — For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 29A-615.

Legislative history of Law 16-33. — For Law 16-33, see notes following § 38-1306.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Editor's notes. — Reorganization Plan No. 3 of 1988 changed the name of the Commission from the Educational Institution Licensure Commission to the Education Licensure Commission.

§ 29A-618. Title of institution not to imply official connection with government of United States or District of Columbia. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 586e; Mar. 2, 1929, 45 Stat. 1505, ch. 523, Apr. 16, 1934, 48 Stat. 592, ch. 143; Nov. 7, 1966, 80 Stat. 1430, Pub. L. 89-791, title I, § 106; Apr. 6, 1977, D.C. Law 1-104, § 6(a)(4), 23 DCR 8734; Sept. 21, 1988, D.C. Law 7-142, § 2, 35 DCR 5401; Oct. 20, 2005, D.C. Law 16-33, § 4004(b)(4), 52 DCR 7503; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-618.
1981 Ed., § 29-818.
1973 Ed., § 29-418.

Emergency legislation. — For temporary (90 day) amendment of section, see § 4004(b)(4) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

Legislative history of Law 1-104. — For legislative history of D.C. Law 1-104, see Historical and Statutory Notes following § 29A-615.

Legislative history of Law 7-142. — Law 7-142, the "Educational Institution Licensure

Commission Institution Title Amendment Act of 1988," was introduced in Council and assigned Bill No. 7-253, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on June 14, 1988, and June 28, 1988, respectively. Signed by the Mayor on June 30, 1988, it was assigned Act No. 7-194 and transmitted to both Houses of Congress for its review.

Legislative history of Law 16-33. — For Law 16-33, see notes following § 38-1306.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-619. Penalties for conferral of degrees without licenses. [Repealed].

Repealed.

(Mar. 3, 1901, ch. 854, § 586f; Mar. 2, 1929, 45 Stat. 1505, ch. 523; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 570, Pub. L.

91-358, title I, § 155(c)(1)(H); Oct. 5, 1985, D.C. Law 6-42, § 470(a), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(k)(5), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-619.
1981 Ed., § 29-819.
1973 Ed., § 29-419.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Subchapter II. Exemption from Usury Laws. [Repealed].

§ 29A-631. Exemption of institutions of higher learning from usury law. [Repealed].

Repealed.

(Jan. 5, 1971, 84 Stat. 1936, Pub. L. 91-650, title IV, § 402; July 2, 2011, D.C. Law 18-378, § 3(o), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-631.
1981 Ed., § 29-820.
1973 Ed., § 29-421.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 7. RELIGIOUS SOCIETIES. [REPEALED].

Subchapter I. General. [Repealed]

Sec.

29A-701. Acquisition of land restricted. [Repealed].

29A-702. Trustees. [Repealed].

29A-703. Trustees or directors — Certificate of election or appointment; filing and recordation. [Repealed].

29A-704. Trustees or directors — Tenure of office; vacancies; rules and regulations; removal. [Repealed].

29A-705. Trustees or directors — Successors; filing and recording certificate of election or appointment. [Repealed].

29A-706. Trustees or directors — Effect of failure to elect. [Repealed].

29A-707. Trustees or directors — Corporate powers. [Repealed].

29A-708. Trustees or directors — Title to land vested. [Repealed].

Sec.

29A-709. Trustees or directors — Powers to convey property. [Repealed].

29A-710. Trustees or directors — Power to mortgage; term of holdings or lease. [Repealed].

29A-711. Dissolution; reversion of property to donors. [Repealed].

29A-712. Religious schools. [Repealed].

Subchapter II. Conveyances. [Repealed]

29A-731. Conveyances to religious congregations; not void for want of trustees. [Repealed].

29A-732. Trustees — Procedure for appointment to receive conveyances. [Repealed].

29A-733. Trustees — Suits for title, possession or enjoyment of property. [Repealed].

29A-734. Limitations on use of land. [Repealed].

*Subchapter I. General. [Repealed]***§ 29A-701. Acquisition of land restricted. [Repealed].**

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 587; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-701.
1981 Ed., § 29-901.
1973 Ed., § 29-501.**Legislative history of Law 18-378.** — For history of Law 18-378, see notes under § 29A-101.01.**§ 29A-702. Trustees. [Repealed].**

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 588; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-702.
1981 Ed., § 29-902.
1973 Ed., § 29-502.**Legislative history of Law 18-378.** — For history of Law 18-378, see notes under § 29A-101.01.**§ 29A-703. Trustees or directors — Certificate of election or appointment; filing and recordation. [Repealed].**

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 589; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-703.
1981 Ed., § 29-903.
1973 Ed., § 29-503.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-704. Trustees or directors — Tenure of office; vacancies; rules and regulations; removal. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 590; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-704.
1981 Ed., § 29-904.
1973 Ed., § 29-504.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-705. Trustees or directors — Successors; filing and recording certificate of election or appointment. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 591; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-705.
1981 Ed., § 29-905.
1973 Ed., § 29-505.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-706. Trustees or directors — Effect of failure to elect. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1282, ch. 854, § 592; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-706.
1981 Ed., § 29-906.
1973 Ed., § 29-506.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-707. Trustees or directors — Corporate powers. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 593; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-707.
1981 Ed., § 29-907.
1973 Ed., § 29-507.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-708. Trustees or directors — Title to land vested. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 594; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-708.
1981 Ed., § 29-908.
1973 Ed., § 29-508.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-709. Trustees or directors — Powers to convey property. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 595; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-709.
1981 Ed., § 29-909.
1973 Ed., § 29-509.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-710. Trustees or directors — Power to mortgage; term of holdings or lease. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 596; June 26, 1922, 42 Stat. 665, ch. 241; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-710.
1981 Ed., § 29-910.
1973 Ed., § 29-510.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-711. Dissolution; reversion of property to donors. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 597; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-711.
1981 Ed., § 29-911.
1973 Ed., § 29-511.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-712. Religious schools. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 598; July 2, 2011, D.C. Law 18-378, § 3(k)(6), 58 DCR 1720.)

§ 29A-731

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-712.
1981 Ed., § 29-912.
1973 Ed., § 29-512.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Subchapter II. Conveyances. [Repealed].

§ 29A-731. Conveyances to religious congregations; not void for want of trustees. [Repealed].

Repealed.

(R.S., D.C., § 453; July 2, 2011, D.C. Law 18-378, § 3(p), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-731.
1981 Ed., § 29-913.
1973 Ed., § 29-513.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-732. Trustees — Procedure for appointment to receive conveyances. [Repealed].

Repealed.

(R.S., D.C., § 454; June 25, 1936, 49 Stat. 1921, ch. 804; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 29, 1970, 84 Stat. 576, Pub. L. 91-358, title I, § 158(a)(2); July 2, 2011, D.C. Law 18-378, § 3(p), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-732.
1981 Ed., § 29-914.
1973 Ed., § 29-514.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-733. Trustees — Suits for title, possession or enjoyment of property. [Repealed].

Repealed.

(R.S., D.C., § 455; July 2, 2011, D.C. Law 18-378, § 3(p), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-733.
1981 Ed., § 29-915.
1973 Ed., § 29-515.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-734. Limitations on use of land. [Repealed].

Repealed.

(R.S., D.C., § 456; July 2, 2011, D.C. Law 18-378, § 3(p), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-734.
1981 Ed., § 29-916.
1973 Ed., § 29-516.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 8. CHARITABLE, EDUCATIONAL, AND RELIGIOUS ASSOCIATIONS.
[REPEALED].

Sec.	Sec.
29A-801. Incorporation — Number of incorporators required; filing and recording certificate; contents. [Repealed].	29A-804. Reincorporation; extension of time of corporate existence; vote required for approval of name change. [Repealed].
29A-802. Incorporation — Powers of body politic and corporate; taxation of property. [Repealed].	29A-805. Power to lease, mortgage, and sell corporate property. [Repealed].
29A-803. Trustees; directors and managers; powers; quorum; vacancies; methods of voting. [Repealed].	29A-806. Name of corporation. [Repealed].

§ 29A-801. Incorporation — Number of incorporators required; filing and recording certificate; contents. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1283, ch. 854, § 599; July 2, 2011, D.C. Law 18-378, § 3(k)(7), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-801.
1981 Ed., § 29-1001.
1973 Ed., § 29-601.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-802. Incorporation — Powers of body politic and corporate; taxation of property. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1284, ch. 854, § 600; Apr. 20, 1932, 47 Stat. 87, ch. 121; July 2, 2011, D.C. Law 18-378, § 3(k)(7), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-802.
1981 Ed., § 29-1002.
1973 Ed., § 29-602.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-803. Trustees; directors and managers; powers; quorum; vacancies; methods of voting. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1284, ch. 854, § 601; June 10, 1930, 46 Stat. 538, ch. 439; Nov. 30, 1945, 59 Stat. 588, ch. 497; Aug. 7, 1946, 60 Stat. 882, ch. 781; July 2, 2011, D.C. Law 18-378, § 3(k)(7), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-803.
1981 Ed., § 29-1003.
1973 Ed., § 29-603.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-804. Reincorporation; extension of time of corporate existence; vote required for approval of name change. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1284, ch. 854, § 602; Mar. 3, 1905, 33 Stat. 1012, ch. 1445; July 2, 2011, D.C. Law 18-378, § 3(k)(7), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-804.
1981 Ed., § 29-1004.
1973 Ed., § 29-604.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-805. Power to lease, mortgage, and sell corporate property. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1284, ch. 854, § 603; July 2, 2011, D.C. Law 18-378, § 3(k)(7), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-805.
1981 Ed., § 29-1005.
1973 Ed., § 29-605.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-806. Name of corporation. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1284, ch. 854, § 604; June 30, 1902, 32 Stat. 533, ch. 1329; July 2, 2011, D.C. Law 18-378, § 3(k)(7), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-806.
1981 Ed., § 29-1006.
1973 Ed., § 29-606.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 9. COOPERATIVE ASSOCIATIONS. [REPEALED].

Sec.

- 29A-901. Definitions. [Repealed].
- 29A-902. Incorporators. [Repealed].
- 29A-903. Purposes for incorporation. [Repealed].
- 29A-904. Powers of association. [Repealed].
- 29A-905. Articles of incorporation — Contents. [Repealed].
- 29A-906. Articles of incorporation — Procedure for filing and recordation; effect of certificate; quo warranto proceedings not precluded. [Repealed].
- 29A-907. Articles of incorporation — Amendments; vote required for proposal and approval of amendments. [Repealed].
- 29A-908. Bylaws; adoption, amendment, or repeal. [Repealed].
- 29A-909. Bylaws — Contents. [Repealed].
- 29A-910. Meetings; regular and special. [Repealed].
- 29A-911. Meetings; regular and special — Notice. [Repealed].
- 29A-912. Meetings; regular and special — Units of membership. [Repealed].
- 29A-913. Voting — Number permitted by each member. [Repealed].
- 29A-914. Voting — Proxy prohibited. [Repealed].
- 29A-915. Voting — By mail. [Repealed].
- 29A-916. Voting provisions — Application to voting by mail. [Repealed].
- 29A-917. Voting provisions — Application to voting by delegates. [Repealed].
- 29A-918. Directors. [Repealed].
- 29A-919. Officers. [Repealed].
- 29A-920. Removal of directors and officers; vote required for approval; vacancies. [Repealed].
- 29A-921. Referendum on acts of directors. [Repealed].
- 29A-922. Limitations upon the return on capital. [Repealed].
- 29A-923. Eligibility and admission to membership. [Repealed].
- 29A-924. Subscribers. [Repealed].
- 29A-925. Share and membership certificates; issuance and contents. [Repealed].
- 29A-926. Transfer of shares and memberships; withdrawal. [Repealed].
- 29A-927. Share and membership certificates — Recall. [Repealed].

Sec.

- 29A-928. Share and membership certificates — Exemption for attachment, execution and garnishment. [Repealed].
- 29A-929. Liability of members. [Repealed].
- 29A-930. Expulsion of members; procedure; purchase of holdings. [Repealed].
- 29A-931. Allocation and distribution of net savings. [Repealed].
- 29A-932. Bonding of officers and employees. [Repealed].
- 29A-933. Audit. [Repealed].
- 29A-934. Annual report of association; contents; penalty for false statement. [Repealed].
- 29A-935. Annual report of association; contents; penalty for false statement — Notice of delinquent reports; failure to file; mandamus. [Repealed].
- 29A-936. Dissolution; methods; vote required for approval; distribution of assets. [Repealed].
- 29A-937. Penalties — Unauthorized use of term “cooperative”; existing cooperatives. [Repealed].
- 29A-938. Penalties — Promotion expenses. [Repealed].
- 29A-939. Penalties — Spreading false reports about management or finances. [Repealed].
- 29A-940. Existing cooperative groups; acceptance of act; filing and recordation of amended articles and bylaws. [Repealed].
- 29A-941. Foreign corporations and associations; admission to do business. [Repealed].
- 29A-942. Compliance with chapter; not in restraint of trade. [Repealed].
- 29A-942.01. Imposition of civil fines, penalties, and fees; adjudications. [Repealed].
- 29A-943. Inconsistent laws deemed inapplicable. [Repealed].
- 29A-944. Taxation; annual license fee; basic business license; expedited filing services. [Repealed].
- 29A-945. Severability of provisions. [Repealed].
- 29A-946. Reservation of right to amend or repeal. [Repealed].
- 29A-947. Short title. [Repealed].

§ 29A-901. Definitions. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 480, ch. 397, § 1; Mar. 14, 1984, D.C. Law 5-57, § 2(a),

§ 29A-902

CORPORATIONS. [REPEALED]

30 DCR 6290; June 29, 1984, D.C. Law 5-92, § 2(a), 31 DCR 2542; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-901.
1981 Ed., § 29-1101.
1973 Ed., § 29-801.

Legislative history of Law 5-57. — Law 5-57, the “District of Columbia Cooperative Housing Association Proportionate Voting Temporary Act of 1983,” was introduced in Council and assigned Bill No. 5-317. The Bill was adopted on first and second readings on November 1, 1983, and November 15, 1983, respectively. Signed by the Mayor on November 21, 1983, it was assigned Act No. 5-85 and transmitted to both Houses of Congress for its review.

Legislative history of Law 5-92. — Law

5-92, the “District of Columbia Cooperative Housing Association Proportionate Voting Act of 1984,” was introduced in Council and assigned Bill No. 5-202, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on April 10, 1984, and April 30, 1984, respectively. Signed by the Mayor on May 9, 1984, it was assigned Act No. 5-133 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-902. Incorporators. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 481, ch. 397, § 2; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-902.
1981 Ed., § 29-1102.
1973 Ed., § 29-802.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-903. Purposes for incorporation. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 481, ch. 397, § 3; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-903.
1981 Ed., § 29-1103.
1973 Ed., § 29-803.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-904. Powers of association. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 481, ch. 397, § 4; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-904.
1981 Ed., § 29-1104.
1973 Ed., § 29-804.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-905. Articles of incorporation — Contents. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 481, ch. 397, § 5; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-905.
1981 Ed., § 29-1105.
1973 Ed., § 29-805.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-906. Articles of incorporation — Procedure for filing and recordation; effect of certificate; quo warranto proceedings not precluded. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 482, ch. 397, § 6; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-906.
1981 Ed., § 29-1106.
1973 Ed., § 29-806.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-907. Articles of incorporation — Amendments; vote required for proposal and approval of amendments. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 483, ch. 397, § 7; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-907.
1981 Ed., § 29-1107.
1973 Ed., § 29-807.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-908. Bylaws; adoption, amendment, or repeal. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 483, ch. 397, § 8; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-908.
1981 Ed., § 29-1108.
1973 Ed., § 29-808.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-909. Bylaws — Contents. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 483, ch. 397, § 9; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-909.
1981 Ed., § 29-1109.
1973 Ed., § 29-809.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-910. Meetings; regular and special. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 483, ch. 397, § 10; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-910.
1981 Ed., § 29-1110.
1973 Ed., § 29-810.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-911. Meetings; regular and special — Notice. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 483, ch. 397, § 11; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-911.
1981 Ed., § 29-1111.
1973 Ed., § 29-811.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-912. Meetings; regular and special — Units of membership. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 12; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-912.
1981 Ed., § 29-1112.
1973 Ed., § 29-812.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-913. Voting — Number permitted by each member. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 13; Mar. 14, 1984, D.C. Law 5-57, § 2(b), 30 DCR 6290; June 29, 1984, D.C. Law 5-92, § 2(b), 31 DCR 2542; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-913.
1981 Ed., § 29-1113.
1973 Ed., § 29-813.

Legislative history of Law 5-57. — For legislative history of D.C. Law 5-57, see Historical and Statutory Notes following § 29A-901.

Legislative history of Law 5-92. — For legislative history of D.C. Law 5-92, see Historical and Statutory Notes following § 29A-901.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-914. Voting — Proxy prohibited. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 14; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-914.
1981 Ed., § 29-1114.
1973 Ed., § 29-814.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-915. Voting — By mail. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 15; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-915.
1981 Ed., § 29-1115.
1973 Ed., § 29-815.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-916. Voting provisions — Application to voting by mail. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 16; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-916.
1981 Ed., § 29-1116.
1973 Ed., § 29-816.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-917. Voting provisions — Application to voting by delegates. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 17; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-917.
1981 Ed., § 29-1117.
1973 Ed., § 29-817.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-918. Directors. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 484, ch. 397, § 18; Mar. 5, 1981, D.C. Law 3-156, § 2(a), 27 DCR 5113; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-918.
1981 Ed., § 29-1118.

1973 Ed., § 29-818.

Legislative history of Law 3-156. — Law

3-156, the "District of Columbia Cooperative Association Act of 1980," was introduced in Council and assigned Bill No. 3-225. The Bill was adopted on first and second readings on September 30, 1980 and October 14, 1980, respectively. Signed by the Mayor on November

10, 1980, it was assigned Act No. 3-283 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-919. Officers. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 19; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-919.
1981 Ed., § 29-1119.
1973 Ed., § 29-819.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-920. Removal of directors and officers; vote required for approval; vacancies. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 20; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-920.
1981 Ed., § 29-1120.
1973 Ed., § 29-820.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-921. Referendum on acts of directors. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 21; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-921.
1981 Ed., § 29-1121.
1973 Ed., § 29-821.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-922. Limitations upon the return on capital. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 22; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-922.
1981 Ed., § 29-1122.
1973 Ed., § 29-822.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-923. Eligibility and admission to membership. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 23; Apr. 13, 1999, D.C. Law 12-217, § 2(a), 46 DCR 284; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-923.
1981 Ed., § 29-1123.
1973 Ed., § 29-823.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of the Cooperative Association Temporary Amendment Act of 1996 (D.C. Law 11-265, April 25, 1997, law notification 43 DCR 4355).

Emergency legislation. — For temporary amendment of section, see § 2(a) of the Cooperative Association Emergency Amendment Act of 1996 (D.C. Act 11-483, January 13, 1997, 44 DCR 626), and see § 2(a) of the Cooperative Association Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-59, March 31, 1997, 44 DCR 2235).

For temporary amendment of section, see

§ 2(a) of the Cooperative Association Second Emergency Amendment Act of 1997 (D.C. Act 12-203, December 2, 1997, 44 DCR 7498).

Legislative history of Law 12-217. — Law 12-217, the “Cooperative Association Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-384, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 9, 1998, it was assigned Act No. 12-532 and transmitted to both Houses of Congress for its review. D.C. Law 12-217 became effective on April 13, 1999.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-924. Subscribers. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 24; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-924.
1981 Ed., § 29-1124.
1973 Ed., § 29-824.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-925. Share and membership certificates; issuance and contents. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 25; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-925.
1981 Ed., § 29-1125.
1973 Ed., § 29-825.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-926. Transfer of shares and memberships; withdrawal. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 26; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

§ 29A-927

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-926.
1981 Ed., § 29-1126.
1973 Ed., § 29-826.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-927. Share and membership certificates — Recall. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 27; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-927.
1981 Ed., § 29-1127.
1973 Ed., § 29-827.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-928. Share and membership certificates — Exemption for attachment, execution and garnishment. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 485, ch. 397, § 28; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-928.
1981 Ed., § 29-1128.
1973 Ed., § 29-828.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-929. Liability of members. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 486, ch. 397, § 29; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-929.
1981 Ed., § 29-1129.
1973 Ed., § 29-829.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-930. Expulsion of members; procedure; purchase of holdings. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 486, ch. 397, § 30; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-930.
1981 Ed., § 29-1130.
1973 Ed., § 29-830.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-931. Allocation and distribution of net savings. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 486, ch. 397, § 31; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-931.
1981 Ed., § 29-1131.
1973 Ed., § 29-831.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-932. Bonding of officers and employees. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 486, ch. 397, § 32; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-932.
1981 Ed., § 29-1132.
1973 Ed., § 29-832.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-933. Audit. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 488, ch. 397, § 33; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-933.
1981 Ed., § 29-1133.
1973 Ed., § 29-833.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-934. Annual report of association; contents; penalty for false statement. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 488, ch. 397, § 34; Oct. 5, 1985, D.C. Law 6-42, § 448(a), 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, §§ 2(s)(1), 26(a), 38 DCR 314; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-934.
1981 Ed., § 29-1134.
1973 Ed., § 29-834.

Legislative history of Law 6-42. — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned

Act No. 6-60 and transmitted to both Houses of Congress for its review.

Legislative history of Law 8-237. — Law 8-237, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990,” was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on

December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-935. Annual report of association; contents; penalty for false statement — Notice of delinquent reports; failure to file; mandamus. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 488, ch. 397, § 35; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-935.
1981 Ed., § 29-1135.
1973 Ed., § 29-835.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-936. Dissolution; methods; vote required for approval; distribution of assets. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 489, ch. 397, § 36; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-936.
1981 Ed., § 29-1136.
1973 Ed., § 29-836.

Legislative history of Law 7-128. — Law 7-128, the “Tenant Assistance Program Low-Yield Cooperative Association Amendment Temporary Act of 1988,” was introduced in Council and assigned Bill No. 7-438. The Bill

was adopted on first and second readings on March 22, 1988, and April 19, 1988, respectively. Signed by the Mayor on May 6, 1988, it was assigned Act No. 7-177 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-937. Penalties — Unauthorized use of term “cooperative”; existing cooperatives. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 489, ch. 397, § 37; June 25, 1948, 62 Stat. 909, ch. 646, § 1; Oct. 5, 1985, D.C. Laws 6-42, § 488(b), 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, §§ 2(s)(2), 26(b), 38 DCR 314; Apr. 13, 1999, D.C. Law 12-217, § 2(b), 46 DCR 284; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-937.
1981 Ed., § 29-1137.
1973 Ed., § 29-837.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of the Cooperative Association Temporary Amendment Act of 1996 (D.C. Law 11-265, April 25, 1997, law notification 43 DCR 4355).

Emergency legislation. — For temporary amendment of section, see § 2(b) of the Cooperative Association Emergency Amendment Act

of 1996 (D.C. Act 11-483, January 13, 1997, 44 DCR 626), § 2(b) of the Cooperative Association Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-59, March 31, 1997, 44 DCR 2235), and § 2(b) of the Cooperative Association Second Emergency Amendment Act of 1997 (D.C. Act 12-203, December 2, 1997, 44 DCR 7498).

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-934.

Legislative history of Law 8-237. — For

legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 29A-934.

Legislative history of Law 12-217. — For legislative history of D.C. Law 12-217, see His-

torical and Statutory Notes following § 29A-923.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-938. Penalties — Promotion expenses. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 489, ch. 397, § 38; Mar. 5, 1981, D.C. Law 3-156, § 2(b), 27 DCR 5113; Oct. 5, 1985, D.C. Law 6-42, § 448(c), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-938. 1981 Ed., § 29-1138. 1973 Ed., § 29-838.

Legislative history of Law 3-156. — For legislative history of D.C. Law 3-156, see Historical and Statutory Notes following § 29A-918.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-918.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-939. Penalties — Spreading false reports about management or finances. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 39; Oct. 5, 1985, D.C. Law 6-42, § 448(d), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-939. 1981 Ed., § 29-1139. 1973 Ed., § 29-839.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-934.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-940. Existing cooperative groups; acceptance of act; filing and recordation of amended articles and bylaws. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 40; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-940. 1981 Ed., § 29-1140. 1973 Ed., § 29-840.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-941. Foreign corporations and associations; admission to do business. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 41; June 29, 1984, D.C. Law 5-92, § 2(c), 31 DCR 2542; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-941. 1981 Ed., § 29-1141. 1973 Ed., § 29-841.

Legislative history of Law 5-92. — For legislative history of D.C. Law 5-92, see Historical and Statutory Notes following § 29A-901.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-942. Compliance with chapter; not in restraint of trade. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 42; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-942. 1981 Ed., § 29-1142. 1973 Ed., § 29-842.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-942.01. Imposition of civil fines, penalties, and fees; adjudications. [Repealed].

Repealed.

(June 19, 1940, ch. 397, § 42a, as added Oct. 5, 1985, D.C. Law 6-42, § 448(e), 32 DCR 4450; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-942.01. 1981 Ed., § 29-1148.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 29A-934.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-943. Inconsistent laws deemed inapplicable. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 43; Aug. 20, 1970, 84 Stat. 828, Pub. L. 91-385, § 1; Apr. 13, 1999, D.C. Law 12-217, § 2(c), 46 DCR 284; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-943. 1981 Ed., § 29-1143. 1973 Ed., § 29-843.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(c) of the Cooperative Association Temporary Amendment Act of 1996 (D.C. Law 11-265, April 25, 1997, law notification 43 DCR 4355).

Emergency legislation. — For temporary

amendment of section, see § 2(c) of the Cooperative Association Emergency Amendment Act of 1996 (D.C. Act 11-483, January 13, 1997, 44 DCR 626), § 2(c) of the Cooperative Association Legislative Review Emergency Amendment Act of 1997 (D.C. Act 12-59, March 31, 1997, 44 DCR 2235), and § 2(c) of the Cooperative Association Second Emergency Amendment Act of 1997 (D.C. Act 12-203, December 2, 1997, 44 DCR 7498).

Legislative history of Law 12-217. — For legislative history of D.C. Law 12-217, see Historical and Statutory Notes following § 29A-923.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-944. Taxation; annual license fee; basic business license; expedited filing services. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 44; Apr. 20, 1999, D.C. Law 12-261, § 2003(w), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(u), 50 DCR 6913; Mar. 3, 2010, D.C. Law 18-111, § 2044, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 2026, 57 DCR 6242; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-944. 1981 Ed., § 29-1144. 1973 Ed., § 29-844.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 206 of the Fiscal Year 2010 Balanced Budget Support Temporary Act of 2010 (D.C. Law 18-222, September 24, 2010, law notification 57 DCR 9859).

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(u) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 2044 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2044 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 206 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 206 of Fiscal Year 2010 Balanced

Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 2026 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 12-261. — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

Legislative history of Law 15-38. — For Law 15-38, see notes following § 29A-615.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 29A-101.121.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 29A-101.121.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-945. Severability of provisions. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 490, ch. 397, § 45; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-945. 1981 Ed., § 29-1145. 1973 Ed., § 29-845.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-946. Reservation of right to amend or repeal. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 491, ch. 397, § 46; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-946.
1981 Ed., § 29-1146.
1973 Ed., § 29-846.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-947. Short title. [Repealed].

Repealed.

(June 19, 1940, 54 Stat. 491, ch. 397, § 47; July 2, 2011, D.C. Law 18-378, § 3(q), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-947.
1981 Ed., § 29-1147.
1973 Ed., § 29-847.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 9A. UNIFORM UNINCORPORATED NONPROFIT ASSOCIATIONS ACT. [REPEALED].

Sec.	Sec.
29A-971.01. Definitions. [Repealed].	29A-971.09. Disposition of personal property of inactive nonprofit association. [Repealed].
29A-971.02. Supplementary general principles of law and equity. [Repealed].	29A-971.10. Appointment of agent to receive service of process. [Repealed].
29A-971.03. Territorial application. [Repealed].	29A-971.11. Claim not abated by change of members or officers. [Repealed].
29A-971.04. Real and personal property; nonprofit association as legatee, devisee, or beneficiary. [Repealed].	29A-971.12. Summons and complaint; service on whom. [Repealed].
29A-971.05. Statement of authority as to real property. [Repealed].	29A-971.13. Uniformity of application and construction. [Repealed].
29A-971.06. Liability in tort and contract. [Repealed].	29A-971.14. Transition concerning real and personal property. [Repealed].
29A-971.07. Capacity to assert and defend; standing. [Repealed].	29A-971.15. Savings clause. [Repealed].
29A-971.08. Effect of judgment or order. [Repealed].	

§ 29A-971.01. Definitions. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 2, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.01.

Legislative history of Law 13-231. — Law 13-231, the “Uniform Unincorporated Nonprofit Association Act of 2000,” was introduced in Council and assigned Bill No. 13-301, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 8,

2000, and December 5, 2000, respectively. Signed by the Mayor on December 22, 2000, it was assigned Act No. 13-508 and transmitted to both Houses of Congress for its review. D.C. Law 13-231 became effective on April 3, 2001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.02. Supplementary general principles of law and equity. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 3, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.02.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.03. Territorial application. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 4, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

§ 29A-971.04

CORPORATIONS. [REPEALED]

Prior Codifications. — 2001 Ed., § 29-971.03.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.04. Real and personal property; nonprofit association as legatee, devisee, or beneficiary. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 5, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.04.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.05. Statement of authority as to real property. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 6, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.05.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.06. Liability in tort and contract. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 7, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.06.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.07. Capacity to assert and defend; standing. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 8, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.07.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.08. Effect of judgment or order. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 9, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.08.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.09. Disposition of personal property of inactive nonprofit association. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 10, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.09.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.10. Appointment of agent to receive service of process. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 11, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.10.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.11. Claim not abated by change of members or officers. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 12, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.11.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.12. Summons and complaint; service on whom. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 13, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.12.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.13. Uniformity of application and construction. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 14, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.13.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.14. Transition concerning real and personal property. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 15, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.14.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-971.15. Savings clause. [Repealed].

Repealed.

(Apr. 3, 2001, D.C. Law 13-231, § 16, 48 DCR 1603; July 2, 2011, D.C. Law 18-378, § 3(r), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-971.15.

Legislative history of Law 13-231. — For D.C. Law 13-231, see notes following § 29A-971.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 10. LIMITED LIABILITY COMPANIES. [REPEALED].

Sec.

- 29A-1001. Definitions. [Repealed].
- 29A-1001.01. Purposes. [Repealed].
- 29A-1002. Formation. [Repealed].
- 29A-1003. Powers. [Repealed].
- 29A-1004. Name. [Repealed].
- 29A-1005. Reserved name. [Repealed].
- 29A-1006. Articles of organization. [Repealed].
- 29A-1007. Amendment of articles of organization. [Repealed].
- 29A-1008. Restated articles of organization. [Repealed].
- 29A-1009. Registered office and registered agent. [Repealed].
- 29A-1010. Change of registered office or registered agent. [Repealed].
- 29A-1011. Resignation of registered agent. [Repealed].
- 29A-1012. Registered agent as agent for service; service when no registered agent. [Repealed].
- 29A-1013. Partnership conversion to a limited liability company. [Repealed].
- 29A-1014. Liability to third parties. [Repealed].
- 29A-1015. Parties to actions. [Repealed].
- 29A-1016. Limited liability company property. [Repealed].
- 29A-1017. Management of limited liability company. [Repealed].
- 29A-1018. Operating agreement. [Repealed].
- 29A-1019. Management of a limited liability company by a manager. [Repealed].
- 29A-1020. Limitation of liability of members and managers; exception. [Repealed].
- 29A-1021. Business transactions of members or managers with the limited liability company. [Repealed].
- 29A-1022. Information and records. [Repealed].
- 29A-1023. Contributions. [Repealed].
- 29A-1024. Sharing of profits and losses. [Repealed].
- 29A-1025. Sharing of distributions. [Repealed].
- 29A-1026. Interim distributions. [Repealed].
- 29A-1027. Distribution upon resignation. [Repealed].
- 29A-1028. Distribution in kind. [Repealed].
- 29A-1029. Restrictions on making distribution. [Repealed].
- 29A-1030. Liability upon wrongful distribution. [Repealed].
- 29A-1031. Right to distribution. [Repealed].
- 29A-1032. Admission of members. [Repealed].
- 29A-1033. Nature of interest in limited liability company. [Repealed].
- 29A-1034. Resignation of member. [Repealed].

Sec.

- 29A-1035. Assignment of financial rights. [Repealed].
- 29A-1036. Assignment of governance rights. [Repealed].
- 29A-1037. Restrictions on assignment of financial and governance rights. [Repealed].
- 29A-1038. Rights of creditor. [Repealed].
- 29A-1039. Powers of estate of a deceased or incompetent member. [Repealed].
- 29A-1040. Approval of merger or consolidation. [Repealed].
- 29A-1041. Articles of merger or consolidation. [Repealed].
- 29A-1042. Effect of merger or consolidation. [Repealed].
- 29A-1043. Right of action. [Repealed].
- 29A-1044. Proper plaintiff. [Repealed].
- 29A-1045. Pleading. [Repealed].
- 29A-1046. Expenses. [Repealed].
- 29A-1047. Dissolution; generally. [Repealed].
- 29A-1048. Judicial dissolution. [Repealed].
- 29A-1049. Articles of dissolution. [Repealed].
- 29A-1050. Winding up. [Repealed].
- 29A-1051. Distribution of assets upon dissolution. [Repealed].
- 29A-1052. Law governing. [Repealed].
- 29A-1053. Registration. [Repealed].
- 29A-1054. Issuance of registration. [Repealed].
- 29A-1055. Name. [Repealed].
- 29A-1056. Changes and amendment. [Repealed].
- 29A-1057. Cancellation of certificate of registration. [Repealed].
- 29A-1058. Transaction of business without registration. [Repealed].
- 29A-1059. Actions by Corporation Counsel. [Repealed].
- 29A-1060. Transactions not constituting doing business. [Repealed].
- 29A-1061. Assent to District laws. [Repealed].
- 29A-1062. Merger of foreign limited liability company authorized to transact business in the District. [Repealed].
- 29A-1063. Fees and charges. [Repealed].
- 29A-1064. Two-year reports of domestic and foreign limited liability companies. [Repealed].
- 29A-1065. Two-year registration fees to be paid by domestic and foreign limited liability companies. [Repealed].
- 29A-1066. Penalty for failure to timely pay 2-year registration fees or file 2-year reports. [Repealed].
- 29A-1067. Proclamation of revocation; effect of publication; extension of term of existence. [Repealed].

Sec.

29A-1068. Carrying on business after issuance of proclamation. [Repealed].

29A-1069. Correction of error in proclamation. [Repealed].

29A-1070. Limited liability companies included in a proclamation; reservation of name. [Repealed].

29A-1071. Limited liability companies included in a proclamation — Procedure for reinstatement. [Repealed].

Sec.

29A-1072. Penalties for failure to file 2-year report on time. [Repealed].

29A-1073. Transaction of business outside the state. [Repealed].

29A-1074. Taxation of limited liability companies. [Repealed].

29A-1075. Regulatory body authority. [Repealed].

§ 29A-1001. Definitions. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 2, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(a), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1001.

1981 Ed., § 29-1301.

Legislative history of Law 10-138. — Law 10-138, the “Limited Liability Company Act of 1994,” was introduced in Council and assigned Bill No. 10-277, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on April 12, 1994, and May 4, 1994, respectively. Signed by the Mayor on May 18, 1994, it was assigned Act No. 10-243 and transmitted to both Houses of Congress for its review. D.C. Law 10-138 became effective on July 23, 1994.

Legislative history of Law 13-133. — Law 13-133, the “Limited Liability Company Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-478, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 1, 2000, and March 7, 2000, respectively. Signed by the Mayor on March 22, 2000, it was assigned Act No. 13-303 and transmitted to both Houses of Congress for its review. D.C. Law 13-133 became effective on June 24, 2000.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1001.01. Purposes. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 2a, as added Sept. 8, 1995, D.C. Law 11-38, § 2(a), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1001.01.

1981 Ed., § 29-1301.1.

Legislative history of Law 11-38. — Law 11-38, the “Limited Liability Company Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-75, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and

second readings on May 2, 1995, and June 6, 1995, respectively. Signed by the Mayor on June 19, 1995, it was assigned Act No. 11-71 and transmitted to both Houses of Congress for its review. D.C. Law 11-38 became effective on September 8, 1995.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1002. Formation. [Repealed].

Repealed.

§ 29A-1003

CORPORATIONS. [REPEALED]

(July 23, 1994, D.C. Law 10-138, § 3, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1002.

1981 Ed., § 29-1302.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1003. Powers. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 4, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1003.

1981 Ed., § 29-1303.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1004. Name. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 5, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(b), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1004.

1981 Ed., § 29-1304.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1005. Reserved name. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 6, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1005.

1981 Ed., § 29-1305.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1006. Articles of organization. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 7, 41 DCR 3010; Sept. 8, 1995, D.C. Law

11-38, § 2(c), 42 DCR 3269; June 24, 2000, D.C. Law 13-133, § 2(b), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1006.

1981 Ed., § 29-1306.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For

legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1007. Amendment of articles of organization. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 8, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(c), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1007.

1981 Ed., § 29-1307.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1008. Restated articles of organization. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 9, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1008.

1981 Ed., § 29-1308.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1009. Registered office and registered agent. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 10, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1009.

1981 Ed., § 29-1309.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1010. Change of registered office or registered agent. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 11, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1010.

1981 Ed., § 29-1310.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1011. Resignation of registered agent. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 12, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1011.

1981 Ed., § 29-1311.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1012. Registered agent as agent for service; service when no registered agent. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 13, 41 DCR 3010; June 5, 2003, D.C. Law 14-307, § 1605(a), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1012.

1981 Ed., § 29-1312.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1605(a) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1605(a) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of sec-

tion, see § 1605(a) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1013. Partnership conversion to a limited liability company. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 14, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(d), 42 DCR 3269; Mar. 2, 2007, D.C. Law 16-191, § 29, 53 DCR 6794; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1013.

1981 Ed., § 29-1313.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 16-191. — Law 16-191, the “Technical Amendments Act of

2006”, was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1014. Liability to third parties. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 15, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1014.

1981 Ed., § 29-1314.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1015. Parties to actions. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 16, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(e), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1015.

1981 Ed., § 29-1315.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1016. Limited liability company property. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 17, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1016.

1981 Ed., § 29-1316.

Legislative history of Law 10-138. — For

legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1017. Management of limited liability company. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 18, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1017.

1981 Ed., § 29-1317.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1018. Operating agreement. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 19, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1018.

1981 Ed., § 29-1318.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1019. Management of a limited liability company by a manager. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 20, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1019.

1981 Ed., § 29-1319.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1020. Limitation of liability of members and managers; exception. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 21, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1020.

1981 Ed., § 29-1320.

Legislative history of Law 10-138. — For

legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1021. Business transactions of members or managers with the limited liability company. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 22, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1021.

1981 Ed., § 29-1321.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1022. Information and records. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 23, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1022.

1981 Ed., § 29-1322.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1023. Contributions. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 24, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1023.

1981 Ed., § 29-1323.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1024. Sharing of profits and losses. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 25, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1024.

1981 Ed., § 29-1324.

Legislative history of Law 10-138. — For

legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For

§ 29A-1025

CORPORATIONS. [REPEALED]

history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1025. Sharing of distributions. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 26, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1025.

1981 Ed., § 29-1325.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1026. Interim distributions. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 27, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1026.

1981 Ed., § 29-1326.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1027. Distribution upon resignation. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 28, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1027.

1981 Ed., § 29-1327.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1028. Distribution in kind. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 29, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1028.

1981 Ed., § 29-1328.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1029. Restrictions on making distribution. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 30, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1029.

1981 Ed., § 29-1329.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1030. Liability upon wrongful distribution. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 31, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1030.

1981 Ed., § 29-1330.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1031. Right to distribution. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 32, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1031.

1981 Ed., § 29-1331.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1032. Admission of members. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 33, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(f), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1032.

1981 Ed., § 29-1332.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1033. Nature of interest in limited liability company. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 34, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1033.
1981 Ed., § 29-1333.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1034. Resignation of member. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 35, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(d), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1034.

1981 Ed., § 29-1334.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1035. Assignment of financial rights. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 36, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1035.

1981 Ed., § 29-1335.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1036. Assignment of governance rights. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 37, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(g), 42 DCR 3269; June 24, 2000, D.C. Law 13-133, § 2(e), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1036.

1981 Ed., § 29-1336.

Legislative history of Law 10-138. — For

legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For

legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1037. Restrictions on assignment of financial and governance rights. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 38, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1037.

1981 Ed., § 29-1337.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1038. Rights of creditor. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 39, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1038.

1981 Ed., § 29-1338.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1039. Powers of estate of a deceased or incompetent member. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 40, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1039.

1981 Ed., § 29-1339.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1040. Approval of merger or consolidation. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 41, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1040.

1981 Ed., § 29-1340.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1041. Articles of merger or consolidation. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 42, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(h), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1041.

1981 Ed., § 29-1341.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1042. Effect of merger or consolidation. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 43, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1042.

1981 Ed., § 29-1342.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1043. Right of action. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 44, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1043.

1981 Ed., § 29-1343.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1044. Proper plaintiff. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 45, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1044.

1981 Ed., § 29-1344.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1045. Pleading. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 46, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1045.

1981 Ed., § 29-1345.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1046. Expenses. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 47, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1046.

1981 Ed., § 29-1346.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1047. Dissolution; generally. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 48, 41 DCR 3010; Apr. 18, 1996, D.C. Law 11-110, § 31, 43 DCR 530; June 24, 2000, D.C. Law 13-133, § 2(f), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1047.

1981 Ed., § 29-1347.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted

on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1048. Judicial dissolution. [Repealed].

Repealed.

§ 29A-1049

CORPORATIONS. [REPEALED]

(July 23, 1994, D.C. Law 10-138, § 49, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1048.

1981 Ed., § 29-1348.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1049. Articles of dissolution. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 50, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1049.

1981 Ed., § 29-1349.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1050. Winding up. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 51, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1050.

1981 Ed., § 29-1350.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1051. Distribution of assets upon dissolution. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 52, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1051.

1981 Ed., § 29-1351.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1052. Law governing. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 53, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1052.

1981 Ed., § 29-1352.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1053. Registration. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 54, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1053.

1981 Ed., § 29-1353.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1054. Issuance of registration. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 55, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1054.

1981 Ed., § 29-1354.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1055. Name. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 56, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(i), 42 DCR 3269; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1055.

1981 Ed., § 29-1355.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1056. Changes and amendment. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 57, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1056.

1981 Ed., § 29-1356.

Legislative history of Law 10-138. — For

§ 29A-1057

CORPORATIONS. [REPEALED]

legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1057. Cancellation of certificate of registration. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 58, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1057.

1981 Ed., § 29-1357.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1058. Transaction of business without registration. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 59, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1058.

1981 Ed., § 29-1358.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1059. Actions by Corporation Counsel. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 60, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1059.

1981 Ed., § 29-1359.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1060. Transactions not constituting doing business. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 61, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1060.

1981 Ed., § 29-1360.

Legislative history of Law 10-138. — For

legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1061. Assent to District laws. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 62, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1061.

1981 Ed., § 29-1361.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1062. Merger of foreign limited liability company authorized to transact business in the District. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 63, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1062.

1981 Ed., § 29-1362.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1063. Fees and charges. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 64, 41 DCR 3010; Sept. 8, 1995, D.C. Law 11-38, § 2(j), 42 DCR 3269; June 5, 2003, D.C. Law 14-307, § 1605(b), 49 DCR 11664; Mar. 3, 2010, D.C. Law 18-111, § 2045, 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 2027, 57 DCR 6242; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1063.

1981 Ed., § 29-1363.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 207 of the Fiscal Year 2010 Balanced Budget Support Temporary Act of 2010 (D.C. Law 18-222, September 24, 2010, law notification 57 DCR 9859).

Emergency legislation. — For temporary (90 day) amendment of section, see § 1605(b) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of sec-

tion, see § 1605(b) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1605(b) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2045 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2045 of Fiscal Year Budget Support

Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 207 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 207 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see § 2027 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-38. — For legislative history of D.C. Law 11-38, see Historical and Statutory Notes following § 29A-1001.01.

Legislative history of Law 18-111. — For Law 18-111, see notes following § 29A-101.121.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 29A-101.121.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1064. Two-year reports of domestic and foreign limited liability companies. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 65, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(g), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1064.

1981 Ed., § 29-1364.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1065. Two-year registration fees to be paid by domestic and foreign limited liability companies. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 66, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(h), 47 DCR 2686; June 5, 2003, D.C. Law 14-307, § 1605(c), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1065.

1981 Ed., § 29-1365.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1605(c) of Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1605(c) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1605(c) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1066. Penalty for failure to timely pay 2-year registration fees or file 2-year reports. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 67, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(i), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1066.

1981 Ed., § 29-1366.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1067. Proclamation of revocation; effect of publication; extension of term of existence. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 68, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(j), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1067.

1981 Ed., § 29-1367.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1068. Carrying on business after issuance of proclamation. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 69, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1068.

1981 Ed., § 29-1368.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1069. Correction of error in proclamation. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 70, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1069.

1981 Ed., § 29-1369.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1070. Limited liability companies included in a proclamation; reservation of name. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 71, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1070.

1981 Ed., § 29-1370.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1071. Limited liability companies included in a proclamation — Procedure for reinstatement. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 72, 41 DCR 3010; Apr. 9, 1997, D.C. Law 11-255, § 31, 44 DCR 1271; June 24, 2000, D.C. Law 13-133, § 2(k), 47 DCR 2686; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1071.

1981 Ed., § 29-1371.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was

adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1072. Penalties for failure to file 2-year report on time. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 73, 41 DCR 3010; June 24, 2000, D.C. Law 13-133, § 2(l), 47 DCR 2686; June 5, 2003, D.C. Law 14-307, § 1605(d), 49 DCR 11664; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1072.

1981 Ed., § 29-1372.

Emergency legislation. — For temporary (90 day) amendment of section, see § 1605(d) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1605(d) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1605(d) of Fiscal Year 2003 Budget

Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 13-133. — For Law 13-133, see notes following § 29A-1001.

Legislative history of Law 14-307. — For Law 14-307, see notes following § 29A-101.12.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1073. Transaction of business outside the state. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 74, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1073.

1981 Ed., § 29-1373.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1074. Taxation of limited liability companies. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 75, 41 DCR 3010; Apr. 4, 2003, D.C. Law 14-282, § 6, 50 DCR 896; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1074.

1981 Ed., § 29-1374.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 6 of the Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, Oct. 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 6 of the Tax Clarity and Related

Amendments Temporary Act of 2002 (D.C. Law 14-228, March 25, 2003, law notification 50 DCR 2741).

Emergency legislation. — For temporary (90 day) amendment of section, see § 6 of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 6 of Tax Clarity and Related Amend-

ments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 6 of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see Historical and Statutory Notes following § 29A-1001.

Legislative history of Law 14-282. — Law 14-282, the “Tax Clarity and Recorder of Deeds

Act of 2002”, was introduced in Council and assigned Bill No. 14-537, which was referred to Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 2, 2002, and October 1, 2002, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No. 14-616 and transmitted to both Houses of Congress for its review. D.C. Law 14-282 became effective on April 4, 2003.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1075. Regulatory body authority. [Repealed].

Repealed.

(July 23, 1994, D.C. Law 10-138, § 76, 41 DCR 3010; July 2, 2011, D.C. Law 18-378, § 3(s), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1075.

1981 Ed., § 29-1375.

Legislative history of Law 10-138. — For legislative history of D.C. Law 10-138, see His-

torical and Statutory Notes following § 29A-1001.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

CHAPTER 11. MISCELLANEOUS PROVISIONS. [REPEALED].

Subchapter I. General. [Repealed]

Sec.

29A-1101. Reorganization of corporations existing prior to January 1, 1902. [Repealed].

29A-1102. Notice of application for, alteration to, or extension of charter or special privileges. [Repealed].

29A-1103. Change of name of corporation. [Repealed].

Sec.

29A-1104. Requirement for recordation of certificate of incorporation. [Repealed].

29A-1105. Semiannual publication of certain foreign corporations required. [Repealed].

Subchapter II. Franchising. [Repealed]

29A-1121 to 29-1128. [Repealed.]

*Subchapter I. General. [Repealed].***§ 29A-1101. Reorganization of corporations existing prior to January 1, 1902. [Repealed].**

Repealed.

(Mar. 3, 1901, 31 Stat. 1316, ch. 854, § 766; Sept. 10, 1992, D.C. Law 9-144, § 2, 39 DCR 4863; July 2, 2011, D.C. Law 18-378, § 3(k)(8), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1101.

1981 Ed., § 29-101.

1973 Ed., § 29-101.

Legislative history of Law 9-144. — Law 9-144, the “District of Columbia Corporation Law Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-64, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted

on first and second readings on May 6, 1992, and June 2, 1992, respectively. Signed by the Mayor on June 19, 1992, it was assigned Act No. 9-224 and transmitted to both Houses of Congress for its review. D.C. Law 9-144 became effective on September 10, 1992.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.**§ 29A-1102. Notice of application for, alteration to, or extension of charter or special privileges. [Repealed].**

Repealed.

(Mar. 3, 1901, 31 Stat. 1316, ch. 854, § 767; July 2, 2011, D.C. Law 18-378, § 3(k)(8), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1102.

1981 Ed., § 29-102.

1973 Ed., § 29-102.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.**§ 29A-1103. Change of name of corporation. [Repealed].**

Repealed.

(Mar. 3, 1901, ch. 854, § 639a; Mar. 1, 1921, 41 Stat. 1194, ch. 94; July 2, 2011, D.C. Law 18-378, § 3(k)(8), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1103.
1981 Ed., § 29-103.
1973 Ed., § 29-103.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1104. Requirement for recordation of certificate of incorporation. [Repealed].

Repealed.

(Mar. 3, 1901, 31 Stat. 1276, ch. 854, § 552; Feb. 4, 1905, 33 Stat. 689, ch. 299; July 2, 2011, D.C. Law 18-378, § 3(k)(8), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1104.
1981 Ed., § 29-104.
1973 Ed., § 29-104.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

§ 29A-1105. Semiannual publication of certain foreign corporations required. [Repealed].

Repealed.

(July 29, 1892, 27 Stat. 325, ch. 321, §§ 1, 2; Mar. 16, 1982, D.C. Law 4-81, § 2, 29 DCR 156; July 2, 2011, D.C. Law 18-378, § 3(t), 58 DCR 1720.)

Prior Codifications. — 2001 Ed., § 29-1105.
1981 Ed., § 29-105.
1973 Ed., § 29-105.

Legislative history of Law 4-81. — Law 4-81, the “Newspaper Publication Act of 1981,” was introduced in Council and assigned Bill No. 4-323, which was referred to the Committee on the Judiciary. The Bill was adopted on first

and second readings on November 10, 1981 and November 24, 1981, respectively. Signed by the Mayor on December 21, 1981, it was assigned Act No. 4-135 and transmitted to both Houses of Congress for its review.

Legislative history of Law 18-378. — For history of Law 18-378, see notes under § 29A-101.01.

Subchapter II. Franchising. [Repealed].

§ 29A-1121. Definitions. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 2, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1121.
1981 Ed., § 29-1201.

Legislative history of Law 7-185. — Law 7-185, the “Franchising Act of 1988,” was introduced in Council and assigned Bill No. 7-439, which was referred to the Committee on Housing and Economic Development. The Bill was adopted on first and second readings on September 27, 1988, and October 11, 1988, respectively. Signed by the Mayor on October 25, 1988, it was assigned Act No. 7-244 and trans-

mitted to both Houses of Congress for its review.

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it

was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

§ 29A-1122. Termination, cancellation, or failure to renew franchise. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 3, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1122.

1981 Ed., § 29-1202.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see Historical and Statutory Notes following § 29A-1121.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1121.

§ 29A-1123. Good cause; opportunity to cure. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 4, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1123.

1981 Ed., § 29-1203.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see Historical and Statutory Notes following § 29A-1121.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1121.

§ 29A-1124. Transfer, assignment, or sale of franchise. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 5, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1124.

1981 Ed., § 29-1204.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see Historical and Statutory Notes following § 29A-1121.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1121.

§ 29A-1125. Nonjudicial dispute resolution. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 6, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1125.
1981 Ed., § 29-1205.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see Historical and Statutory Notes following § 29A-1121.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1121.

§ 29A-1126. Remedies. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 7, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1126.
1981 Ed., § 29-1206.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see Historical and Statutory Notes following § 29A-1121.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1121.

§ 29A-1127. Conflict. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 8, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Prior Codifications. — 2001 Ed., § 29-1127.
1981 Ed., § 29-1207.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see Historical and Statutory Notes following § 29A-1201.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1201.

§ 29A-1128. Application of chapter. [Repealed].

Repealed.

(Mar. 16, 1989, D.C. Law 7-185, § 9, 35 DCR 7906; April 29, 1998, D.C. Law 12-86, § 1002, 45 DCR 1172.)

Cross references. — Smoke detector requirements, see § 6-751.02.

Prior Codifications. — 2001 Ed., § 29-1128.
1981 Ed., § 29-1208.

Legislative history of Law 7-185. — For legislative history of D.C. Law 7-185, see His-

torical and Statutory Notes following § 29A-1121.

Legislative history of Law 12-86. — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 29A-1121.

TITLE 30. HOTELS AND LODGING HOUSES.

Chapter

1. Rights and Liabilities.

CHAPTER 1. RIGHTS AND LIABILITIES.

Sec.	Sec.
30-101. Liability for loss or destruction of, or damage to, personal property of guests.	tion by public sale; application of proceeds.
30-102. Lien on personal property of guests or patrons for amount due; satisfac-	30-103. Sale of unclaimed personal property; application of proceeds.

§ 30-101. Liability for loss or destruction of, or damage to, personal property of guests.

(a) If a hotel, motel, or similar establishment in the District of Columbia which provides lodging to transient guests: (1) provides a suitable depository (other than a checkroom) for the safekeeping of personal property (other than a motor vehicle); and (2) displays conspicuously in the guest and public rooms of that establishment a printed copy of this section (or summary thereof); that establishment shall not be liable for the loss or destruction of, or damage to, any personal property of a guest or patron not deposited for safekeeping, except that this sentence shall not apply with respect to the liability of that establishment for loss or destruction of, or damage to, any personal property retained by a guest in his room if the property is such property as is usual, common, or prudent for a guest to retain in his room. In the case of any personal property of a guest or patron deposited in such a depository for safekeeping, that establishment shall be liable for the loss or destruction of, or damage to, that property to the extent of the lesser of \$1,000 or the fair market value of the property at the time of its loss, destruction, or damage.

(b) If a hotel, motel, or similar establishment in the District of Columbia which provides lodging to transient guests maintains a checkroom (conspicuously designated as such) where guests and patrons may deposit personal property, that establishment shall, if it conspicuously posts a printed copy of this section (or summary thereof), be liable for the loss or destruction of, or damage to, that property only to the extent of the lesser of \$200 or the fair market value of the property at the time of its loss, destruction, or damage unless the destruction or damage is caused by its agent or servant.

(Dec. 8, 1970, 84 Stat. 1395, Pub. L. 91-537, § 1.)

Prior Codifications. — 1981 Ed., § 34-101.
1973 Ed., § 34-106.

CASE NOTES

In general.

District of Columbia statute limiting inn-

keeper's common law liability to his guests is strictly construed. *Paraskevaides v. Four Sea-*

sons Wash., 292 F.3d 886, 2002 U.S. App. LEXIS 11675 (C.A.D.C. 2002).

Under District of Columbia law, hotel's posting of liability limitation in guestrooms was insufficient to satisfy statutory requirement that limitation be posted in "guest and public rooms" of hotel in order to be effective. *Paraskevaides v. Four Seasons Wash.*, 292 F.3d 886, 2002 U.S. App. LEXIS 11675 (C.A.D.C. 2002).

Where parties bringing action against hotel for damages for jewelry that disappeared while they ate lunch in hotel restaurant were not overnight guests of hotel but merely eating lunch at restaurant at time jewelry disappeared, no innkeeper-guest relationship existed between parties and restaurant so as to impose strict liability on hotel, under District of Columbia law, for loss of jewelry. D.C. Code 1981, § 34-101. *Blakemore v. Coleman*, 701 F.2d 967, 1983 U.S. App. LEXIS 29956 (C.A.D.C. 1983).

Bar on hotel's strict liability for guest's property loss under District of Columbia statute limiting common-law doctrine of *infra hospitium* is extinguished if hotel: (a) fails to display copy of statute, and (b) fails to post notice conspicuously, or (c) property is that which prudent guest would usually or commonly keep in room with reasonable expectation that hotel would guard against its loss. *Paraskevaides v. Four Seasons Wash.*, 148 F.Supp.2d 20, 2001 U.S. Dist. LEXIS 8876 (2001), reversed by, remanded by 292 F.3d 886, 352 U.S. App. D.C. 182, 2002 U.S. App. LEXIS 11675 (2002).

District of Columbia statute limiting common-law doctrine of *infra hospitium* applied to bar hotel's strict liability for value of jewelry stolen from wall safe in guests' room; hotel

posted summary of statute next to safe, location of such notice was "conspicuous," and guests' decision to place \$1.2 million worth of jewelry in room safe, rather than hotel's safety deposit boxes, was not "usual, common, or prudent." *Paraskevaides v. Four Seasons Wash.*, 148 F.Supp.2d 20, 2001 U.S. Dist. LEXIS 8876 (2001), reversed by, remanded by 292 F.3d 886, 352 U.S. App. D.C. 182, 2002 U.S. App. LEXIS 11675 (2002).

Even if hotel were unable to prevail on statutory defense, hotel was not liable to guests for value of jewelry stolen from wall safe in guests' room on negligence claim under District of Columbia law; hotel exercised reasonable care by providing in-room safes and posting notice next to safe that hotel considered only safety deposit boxes maintained behind front desk suitable depositories for valuables, and guests' lack of prudence in placing \$1.2 million worth of jewelry in room safe made them contributorily negligent. *Paraskevaides v. Four Seasons Wash.*, 148 F.Supp.2d 20, 2001 U.S. Dist. LEXIS 8876 (2001), reversed by, remanded by 292 F.3d 886, 352 U.S. App. D.C. 182, 2002 U.S. App. LEXIS 11675 (2002).

Hotel patron who had stated to hotel desk clerk in the morning that she was checking out but would leave her belongings in the room until 3:00 p.m. until check-out time and was told that this was permissible and who discovered at about 2:30 p.m. that her fur coat was missing from the room was a "guest" of the hotel at the time of the loss, and the common-law doctrine of *infra hospitium* was applicable. D.C. Code 1961, § 34-101. *Hotel Corp. of America v. Travelers Indem. Co.*, 229 A.2d 158, 1967 D.C. App. LEXIS 149 (App. 1967).

§ 30-102. Lien on personal property of guests or patrons for amount due; satisfaction by public sale; application of proceeds.

(a) A hotel, motel, or similar establishment in the District of Columbia which provides lodging to transient guests has a lien upon and may retain possession of, any personal property belonging to, or under the control of, a guest or patron of that establishment, for the amount due that establishment from that guest or patron for lodging, food, or other item of value, except that the amount of the lien authorized by this subsection may not exceed \$1,000.

(b)(1) If, within 30 days after his property has been retained under subsection (a) of this section, a guest or patron fails to pay the establishment retaining that property any amount due that establishment for lodging, food, or other item of value, that establishment may sell that property at a public sale. Prior to that sale, the establishment shall send, by registered or certified mail, to the last known address of that guest or patron a demand for payment of the amount due, and shall publish a notice of sale once a week for 3 successive weeks in a daily newspaper of general circulation published in the District of Columbia. That notice shall state:

(A) That the purpose of the sale is to satisfy the lien granted by subsection (a) of this section;

(B) The amount for which that lien is granted, including storage charges;

(C) The day, time, and place of sale; and

(D) A description of the property including, in the case of the sale of a motor vehicle, the make, type, year, model number, serial number, engine number, and the year and license registration number of that motor vehicle.

(2) In the case of the sale of a motor vehicle, a notice shall be given to any person whose security interest, lien, or other claim upon that motor vehicle is recorded with the motor vehicle registry of the state (including the District of Columbia) of registration of that motor vehicle. That notice shall be given at least 15 days prior to the date of sale.

(c)(1) The proceeds of a sale of property made under subsection (b) of this section shall be applied as follows:

(A) To cover the expenses of the storage and sale of the property; and

(B) To discharge any security interest, lien, or other claim upon the property in the order of priority provided for by law.

(2) Any amount remaining after the application provided for by subparagraphs (A) and (B) of paragraph (1) of this subsection shall be paid to the party entitled to the remainder if that party is known and can be located. If that party is not known or cannot be located within one year after the date of the sale, the establishment shall pay, within a reasonable time, the remainder to the government of the District of Columbia.

(Dec. 8, 1970, 84 Stat. 1395, Pub. L. 91-537, § 2.)

Prior Codifications. — 1981 Ed., § 34-102.
1973 Ed., § 34-107.

§ 30-103. Sale of unclaimed personal property; application of proceeds.

(a)(1) A hotel, motel, or similar establishment in the District of Columbia which provides lodging to transient guests may sell at a public auction any personal property that has been deposited for safekeeping, checked, or left unclaimed at that establishment for more than 90 days. If the owner of that property is known, the establishment shall, at least 15 days before that sale is held, send, by registered or certified mail, a notice to the owner at his last known address stating:

(A) That the purpose of the sale is to dispose of unclaimed property;

(B) The amount of storage and other charges (including interest on those charges) against that property;

(C) The day, time, and place of sale; and

(D) A description of the property including, in the case of the sale of a motor vehicle, the make, type, year, model number, serial number, engine number, and the year and license registration number of that motor vehicle.

(2) In the case of the sale of a motor vehicle, a notice shall be given to any person whose security interest, lien, or other claim upon that motor vehicle is

recorded with the motor vehicle registry of the state (including the District of Columbia) of registration of that motor vehicle. That notice shall be given at least 15 days prior to the date of sale.

(b)(1) The proceeds of a sale of property made under subsection (a) of this section shall be applied as follows:

(A) To cover the expenses of the storage and sale of the property (including interest on those charges); and

(B) To discharge any security interest, lien, or other claim upon the property in the order of priority provided for by law.

(2) Any amount remaining after the application provided for by subparagraphs (A) and (B) of paragraph (1) of this subsection shall be paid to the party entitled to the remainder if that party is known and can be located. If that party is not known or cannot be located within one year after the date of the sale, the establishment shall pay, within a reasonable time, the remainder to the government of the District of Columbia.

(Dec. 8, 1970, 84 Stat. 1396, Pub. L. 91-537, § 3.)

Section references. — This section is referenced in § 41-115.

Prior Codifications. — 1981 Ed., § 34-103. 1973 Ed., § 34-108.

TITLE 31. INSURANCE AND SECURITIES.

Chapter

1. Department of Insurance, Securities, and Banking.
2. Duties of Commissioner; Requirements of Industry.
- 2A. Unauthorized Entities.
3. Annual Audited Financial Reports.
4. Business Transacted with Producer Controlled Insurer.
5. Credit for Reinsurance.
6. Domestic Stock Insurance Companies.
- 6A. Fingerprint-Based Background Checks.
7. Holding Companies.
8. Insurance Agents and Brokers Licensing [Repealed]..
- 8A. Insurance Compliance Self-Evaluation Privilege.
9. Insurance Demutualization.

CHAPTER 1. DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING.

<i>Subchapter I. Establishment of the Department of Insurance, Securities, and Banking</i>	Sec.	Insurance, Securities, and Bank- ing.
Sec.		
31-101. Definitions.	31-105. Transfers.	
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Subchapter I. Establishment of the Department of Insurance, Securities, and Banking.

§ 31-101. Definitions.

For the purposes of this subchapter, the term:

(1) "Associate Commissioner for Securities and Banking" means the Associate Commissioner of the Securities and Banking Bureau.

(2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking, who shall be the chief executive officer of the Department of Insurance, Securities, and Banking.

(3) "Department" means the Department of Insurance, Securities, and Banking.

(4) "Deputy Commissioner" means the Deputy Commissioner of the Department of Insurance, Securities, and Banking.

(5) "District of Columbia Banking Code" means the statutory provisions concerning banking and financial institutions codified in Title 26, laws administered by the Commissioner, and rules and regulations promulgated under those statutory provisions and laws.

(6) "Insurance Bureau" means the office overseeing the regulation of insurance, insurers, and health maintenance organizations.

(7) "Securities and Banking Bureau" means the office administering the District of Columbia Banking Code and overseeing the regulation of securities.

(May 21, 1997, D.C. Law 11-268, § 2, 44 DCR 1730; June 11, 2004, D.C. Law 15-166, § 3(a), 51 DCR 2817; Apr. 13, 2005, D.C. Law 15-354, § 98, 52 DCR 2638; Sept. 24, 2010, D.C. Law 18-223, § 2112(a), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 35-121.

Effect of amendments. — D.C. Law 15-166 redesignated par. (1) as paragraph (1B); in the redesignated par. (1B), substituted "Commissioner of the Department of Insurance, Securities, and Banking" for "Commissioner of Insurance and Securities"; rewrote par. (1); added par. (1A); and in par. (2), substituted "Department of Insurance, Securities, and Banking" for "Department of Insurance and Securities Regulation". Prior to amendment, par. (1) had read as follows: "(1) 'Commissioner' means the Commissioner of Insurance and Securities, who shall be the chief executive officer of the Department of Insurance and Securities Regulation."

D.C. Law 15-354 validated a previously made technical correction.

D.C. Law 18-223 rewrote the section.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(a) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

For temporary (90 day) amendment of section, see § 2112(a) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 11-268. — Law 11-268, the "Department of Insurance and Securities Regulation Establishment Act of 1996," was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective May 21, 1997.

Legislative history of Law 15-166. — Law 15-166, the "Consolidation of Financial Services Amendment Act of 2004", was introduced in Council and assigned Bill No. 15-518, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on January 6, 2004, and February 3, 2004, respectively. Signed by the Mayor on February 27, 2004, it was assigned Act No. 15-385 and transmitted to both Houses of Congress for its review. D.C. Law 15-166 became effective on June 11, 2004.

Legislative history of Law 15-354. — Law 15-354, the "Technical Amendments Act of 2004", was introduced in Council and assigned Bill No. 15-1130 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 7, 2004, and December 21, 2004, respectively. Signed by the Mayor on February 9, 2005, it was assigned Act No. 15-770 and transmitted to both Houses of Congress for its review. D.C. Law 15-354 became effective on April 13, 2005.

Legislative history of Law 18-223. — Law 18-223, the "Fiscal Year 2011 Budget Support Act of 2010", was introduced in Council and assigned Bill No. 18-731, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 26, 2010, and June 15, 2010, respectively. Signed by the Mayor on July 2, 2010, it was assigned Act No. 18-462 and transmitted to both Houses of Congress for its review. D.C. Law 18-223 became effective on September 24, 2010.

Short title. — Short title: Section 2111 of D.C. Law 18-223 provided that subtitle K of title II of the act may be cited as the "Department of Insurance, Securities, and Banking Reorganization Amendment Act of 2010".

§ 31-102. Establishment of the Department of Insurance, Securities, and Banking.

The Department, under the supervision of the Commissioner, is established as a cabinet level agency of the District government.

(May 21, 1997, D.C. Law 11-268, § 3, 44 DCR 1730; June 11, 2004, D.C. Law

15-166, § 3(b), 51 DCR 2817; Apr. 13, 2005, D.C. Law 15-354, § 40(a), 52 DCR 2638.)

Section references. — This section is referenced in § 31-1131.02 and § 31-3171.01.

Prior Codifications. — 1981 Ed., § 35-122.

Effect of amendments. — D.C. Law 15-166 rewrote the section which had read as follows: “Pursuant to § 1-204.04(b), the Council establishes the Department of Insurance and Securities Regulation as a cabinet level agency of the executive branch of the Government of the District of Columbia, under the supervision of the Commissioner of Insurance and Securities.”

D.C. Law 15-354, in the section heading, validated a previously made technical correction.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(b) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 31-101.

§ 31-103. Functions and duties.

(a) The functions and duties contained and referenced herein are transferred to the Department and shall be performed by the following major organizational components of the Department.

(1) All duties and responsibilities in respect to the regulation of life and health and property and casualty insurance, insurers, and health maintenance organizations that heretofore have been given to the Mayor, the Superintendent of Insurance, or the Insurance Administrator, by virtue of various District of Columbia laws, shall be assumed by the Commissioner of Insurance and Securities who shall exercise those regulatory responsibilities through the Insurance Bureau.

(2) All functions and duties assigned to the Public Service Commission in Chapter 36 [repealed] of Title 3 and Chapter 37 [repealed] of Title 3, shall be assumed by the Commissioner, who shall exercise those regulatory responsibilities through the Securities and Banking Bureau.

(3) Pursuant to §§ 26-551.03 and 26-551.05, the Commissioner, through the Securities and Banking Bureau, shall administer the District of Columbia Banking Code, as defined in § 26-551.02(14).

(b) The Mayor, at his or her discretion, may transfer the regulatory functions and duties of other executive offices and agencies to the Department.

(May 21, 1997, D.C. Law 11-268, § 4, 44 DCR 1730; June 11, 2004, D.C. Law 15-166, § 3(c), 51 DCR 2817; Apr. 13, 2005, D.C. Law 15-354, § 40(b), 52 DCR 2638; Sept. 24, 2010, D.C. Law 18-223, § 2112(b), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 35-123.

Effect of amendments. — D.C. Law 15-166, in subsec. (a), deleted “of Insurance and Securities” following “Commissioner” in par. (2), and added par. (3).

D.C. Law 15-354, in subsec. (a)(3), substituted “Banking Code, as defined in § 26-551.02(14)” for “Banking Code”.

D.C. Law 18-223, in subsec. (a)(2), substituted “Securities and Banking Bureau” for “Se-

curities Bureau”; and, in subsec. (a)(3), substituted “Securities and Banking Bureau” for “Banking Bureau”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(c) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

For temporary (90 day) amendment of section, see § 2112(b) of Fiscal Year 2011 Budget

Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 31-101.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 31-101.

§ 31-104. Commissioner of the Department of Insurance, Securities, and Banking.

(a) The Commissioner shall be appointed by the Mayor, with the advice and consent of the Council, pursuant to § 1-204.22(1).

(1) Notwithstanding the provisions of § 1-611.07(c) [repealed], the rate of pay for the Commissioner or for any other position in the Department for which the Mayor deems it necessary, may exceed the rate of pay for the Mayor.

(2) The Mayor shall submit a resolution to the Council for a 45-day period of review, excluding Saturdays, Sundays, holidays, and periods of Council recess, indicating the proposed rate of pay for the Commissioner and for each other employee in the Department. A resolution which has not been approved or disapproved, in whole or part, within the prescribed period of 45 days shall be deemed approved by the Council.

(b) The Commissioner shall employ staff as needed, in accordance with annual appropriations.

(May 21, 1997, D.C. Law 11-268, § 5, 44 DCR 1730; June 11, 2004, D.C. Law 15-166, § 3(d), 51 DCR 2817; Apr. 13, 2005, D.C. Law 15-354, § 40(c), 52 DCR 2638.)

Prior Codifications. — 1981 Ed., § 35-124.

Effect of amendments. — D.C. Law 15-166, deleted “of Insurance and Securities” following “Commissioner” throughout the section.

D.C. Law 15-354, in the section heading, validated a previously made technical correction.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(d) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative history of Law 11-268. — For

legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 31-101.

Editor’s notes. — Commissioner of the Department of Insurance and Securities Regulation Salary Approval Resolution of 1998: Pursuant to Resolution 12-582, effective July 7, 1998, the Council approved the rate of pay for the Commissioner of the Department of Insurance and Securities Regulation.

§ 31-105. Transfers.

(a) All positions, property, records, and unexpended balances of appropriations, allocations, assessments, and other funds available or to be made available to the Department of Consumer and Regulatory Affairs and the Public Service Commission relating to the duties and functions assigned herein, are transferred to the Department.

(b) All powers, duties, and functions transferred to the Department of Banking and Financial Institutions under § 26-551.03, are hereby transferred to the Department of Insurance, Securities, and Banking.

(c) All positions, property, records, and unexpended balances of appropriations, allocations, assessments, and other funds available or to be made available to the Department of Banking and Financial Institutions under § 26-551.03, are hereby transferred to the Department.

(May 21, 1997, D.C. Law 11-268, § 6, 44 DCR 1730; June 11, 2004, D.C. Law 15-166, § 3(e), 51 DCR 2817; Apr. 13, 2005, D.C. Law 15-354, § 40(d), 52 DCR 2638.)

Prior Codifications. — 1981 Ed., § 35-125.

Effect of amendments. — D.C. Law 15-166 designated the existing text as subsec. (a); and added subsecs. (b) and (c).

D.C. Law 15-354, in subsec. (a), validated a previously made technical correction.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(e) of Consolidation of Financial Services Emergency

Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 31-101.

§ 31-106. Organization.

(a) The Commissioner, as the chief executive officer of the Department is authorized to organize the personnel and property transferred herein within any organizational unit of the Department as the Commissioner deems appropriate.

(b)(1) The Securities and Banking Bureau is established to oversee the regulation of securities under the supervision of the Commissioner and administer the District of Columbia Banking Code.

(2) The position of Associate Commissioner for Securities and Banking is hereby established to administer the Banking Bureau under the supervision of the Commissioner.

(May 21, 1997, D.C. Law 11-268, § 7, 44 DCR 1730; June 11, 2004, D.C. Law 15-166, § 3(f), 51 DCR 2817; Sept. 24, 2010, D.C. Law 18-223, § 2112(c), 57 DCR 6242.)

Prior Codifications. — 1981 Ed., § 35-126.

Effect of amendments. — D.C. Law 15-166 designated the text of the existing section as subsection (a); in subsec. (a), substituted “Commissioner” for “Commissioner of Insurance and Securities” and substituted “Department” for “Department of Insurance and Securities Regulation”; and added subsec. (b).

D.C. Law 18-223 rewrote subsec. (b)(1); and, in subsec. (b)(2), substituted “Associate Commissioner for Securities and Banking” for “Director of the Bureau of Banking and Financial Institutions”. Prior to amendment, subsec. (b)(1) read as follows: “(b)(1) The Bureau of Banking and Financial Institutions is hereby established to administer the District of Columbia Banking Code under supervision of the Commissioner.”

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(f) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

For temporary (90 day) amendment of section, see § 2112(c) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 31-101.

§ 31-107. Department of Insurance, Securities, and Banking funding.

(a) Control of the Insurance Regulatory Trust Fund, and all monies required to be deposited therein, pursuant to Chapter 7 of this title, is transferred to the Department.

(b) Repealed.

(b-1) Repealed.

(b-2) There is established within the General Fund of the District of Columbia a trust fund designated as the Securities and Banking Regulatory Trust Fund ("Fund"), to which shall be credited all proceeds from licensure and any funds obtained pursuant to securities regulation and banking regulation. All funds received but not expended in a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia. All funds received and deposited in the Fund shall be used to fund the expenses of the Securities and Banking Bureau in the discharge of its administrative and regulatory duties as prescribed by law. All licensing fees, fines, and any other fees imposed, assessed, and collected for securities regulation and banking regulation shall be deposited into the Fund. The Mayor, through the Commissioner, shall administer the Fund.

(c) The administrative costs of the Department, including the compensation of the Commissioner and the Department's central administrative staff, shall be charged on a pro-rata basis to each of the respective Bureau trust funds in a manner reflecting the central administrative costs associated with the operation of each Bureau. In no circumstances shall monies collected and deposited pursuant to the statutory funding requirements of the District of Columbia Securities Act, the Investment Advisors Act, and the Insurance Regulatory Trust Fund Act, be commingled or used to fund the regulatory activities of a bureau other than the bureau regulating the activities for which the respective funds were established.

(d) The Mayor shall submit to the Council, as part of the annual budget, a budget for the Department and a request for an appropriation for expenditures from the Insurance Regulatory Trust Fund and the Securities and Banking Regulatory Trust Fund. The Mayor's request shall be based on an estimated projection of the expenditures necessary to perform the administration and regulatory functions of the Department. This estimate shall include, but not be limited to, expenditures for salaries, fringe benefits, overhead charges, travel, training, supplies, technical, professional, and any and all other services necessary to discharge the duties and responsibilities of this subchapter.

(May 21, 1997, D.C. Law 11-268, § 8, 44 DCR 1730; June 11, 2004, D.C. Law 15-166, § 3(g), 51 DCR 2817; Sept. 24, 2010, D.C. Law 18-223, § 2112(d), 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 9039, 58 DCR 6226.)

Section references. — This section is referenced in § 31-5041.02.

Prior Codifications. — 1981 Ed., § 35-127.

Effect of amendments. — D.C. Law 15-

166, in subsec. (a), substituted "Department" for "Department of Insurance and Securities Regulation"; added subsec. (b-1); and, in subsec. (d), substituted "the Security Regula-

tory Trust Fund, and the Banking Regulatory Trust Fund” for “and the Security Regulatory Trust Fund”.

D.C. Law 18-223 repealed subsecs. (b) and (b-1); added subsec. (b-2); and, in subsec. (d), substituted “and the Securities and Banking Regulatory Trust Fund” for “, the Securities Regulatory Trust Fund, and the Banking Regulatory Trust Fund”.

D.C. Law 19-21, in subsec. (b-2), substituted “all proceeds from licensure and any funds” for “all funds”.

Emergency legislation. — For temporary (90 day) amendment of section, see § 3(g) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

For temporary (90 day) amendment of section, see § 2112(d) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

Legislative history of Law 18-223. — For Law 18-223, see notes following § 31-101.

Legislative history of Law 19-21. — Law 19-21, the “Fiscal Year 2012 Budget Support Act of 2011”, was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

References in text. — The “District of Columbia Securities Act”, referred to in (c), is the Act of August 30, 1964, 78 Stat. 620, Pub. L. 88-503, which is codified primarily as § 3-3601 et seq.

The “Investment Advisors Act”, referred to in (c), is D.C. Law 9-216, which is codified as § 3-3701 et seq.

The “Insurance Regulatory Trust Fund Act”, referred to in (c), is D.C. Law 10-40, which is codified as § 31-1201 et seq.

§ 31-108. Abolition of Insurance Administration.

The Insurance Administration in the Department of Consumer and Regulatory Affairs as currently organized is abolished.

(May 21, 1997, D.C. Law 11-268, § 9, 44 DCR 1730.)

Prior Codifications. — 1981 Ed., § 35-128.

Legislative history of Law 11-268. — For

legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-101.

Subchapter II. Regulations Under the Gramm-Leach-Bliley Act.

§ 31-121. Regulations.

The Commissioner may promulgate rules, regulations, and orders as are necessary or appropriate to conform to the Gramm-Leach-Bliley Act, approved November 12, 1999 (113 Stat. 1338; codified in scattered sections of the U.S. Code), or regulations promulgated thereunder.

(Oct. 21, 2000, D.C. Law 13-191, § 8, 47 DCR 7311.)

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of the Insurer Confidentiality and Information Sharing Emergency Act of 2000 (D.C. Act 13-444, October 24, 2000, 47 DCR 9007).

Legislative history of Law 13-191. — Law 13-191, the “Insurer Confidentiality and Information Sharing Amendment Act of 2000,” was introduced in Council and assigned Bill No.

13-706, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 4, 2000, it was assigned Act No. 13-419 and transmitted to both Houses of Congress for its review. D.C. Law 13-191 became effective on October 21, 2000.

CHAPTER 2. DUTIES OF COMMISSIONER; REQUIREMENTS OF INDUSTRY.

Sec.

- 31-201. Establishment; appointment of Superintendent and clerk. [Repealed].
- 31-202. General duties of Commissioner; companies or associations to file certain information; service of legal process; rules and regulations.
- 31-203. Required annual financial statements of companies or associations — Contents; publication. [Repealed].
- 31-204. Required annual financial statements of companies or associations — Foreign companies or associations.

Sec.

- 31-205. Required annual statement of business; tax payments; annuities exemption.
- 31-206. Required annual reports of Commissioner — Contents.
- 31-207. Required annual reports of Commissioner — Publication and distribution.
- 31-208. Capital requirements of companies or associations.

§ 31-201. Establishment; appointment of Superintendent and clerk. [Repealed].

Repealed.

(May 21, 1997, D.C. Law 11-268, § 10(c), 44 DCR 1730.)

Prior Codifications. — 1981 Ed., § 35-101.

Legislative history of Law 11-268. — Law 11-268, the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective May 21, 1997.

Editor’s notes. — Department of Insurance abolished: The Department of Insurance, including the Superintendent, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 43, dated June 23, 1953, as amended, established, under the direction and control of a Commissioner, a Department of Insurance headed by a Superintendent. The Order provided for the organization of the Department, abolished the previously existing De-

partment of Insurance, and provided that all functions and positions of the previous Department would be transferred to the new Department of Insurance, including the duties, powers, and authorities of all officers and employees; and that all personnel, property, records and unexpended balances relating to the functions and positions transferred would also be transferred to the new Department. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. The functions of the Superintendent of Insurance were transferred to the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983. Pursuant to the provisions of D.C. Law 11- (Act 11-524), the Department of Insurance and Securities Regulation was established and the duties of the Superintendent of Insurance and the Insurance Administration were assumed by the Commissioner of Insurance and Securities, and the Insurance Administration in the Department of Consumer and Regulatory Affairs was abolished.

§ 31-202. General duties of Commissioner; companies or associations to file certain information; service of legal process; rules and regulations.

(a) It shall be the duty of the Commissioner to see that all laws of the United States relating to insurance or insurance companies, benefit orders, associations, and others doing insurance business in the District are faithfully

executed, to keep on file in the Insurance Administration office copies of the charters, declarations of organizations, or articles of incorporation of every company, association, or order doing business in the District.

(b) Before any such insurance company, association, or order shall be licensed to do business in the District it shall file with the Commissioner a copy of its charter, declaration of organization, or articles of incorporation duly certified in accordance with the law by the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking], Insurance Commissioner, or other proper officers of the state, territory, or nation where the company, association, group, or organization was organized, a certificate setting forth that it is entitled to transact business and assume risks and issue policies of insurance therein and any other information required by the Commissioner; and a duly executed instrument appointing some suitable person in the District of Columbia, or not 10 miles beyond the territorial limits of the District of Columbia, as the agent for such company, upon whom all lawful process in any action or legal proceeding against it in the District may be served and shall register with the Commissioner the address of its principal office and the name and address of its agent for service of process in the District, including any changes in address.

(c) Should said company refuse to appoint such agent, or should any person, after making reasonable efforts to do so (which efforts shall be documented), be unable to serve such agent, said legal process shall be served upon the Commissioner and shall be deemed service upon the company. The Commissioner may by regulation establish fees to be paid when legal process is served upon the Commissioner pursuant to this section. Whenever the Commissioner is served pursuant to this section, he or she shall forward forthwith such process by certified mail to the company named therein, and shall maintain a log showing when such process was served upon the Commissioner and when it was forwarded to the person named therein. The Commissioner shall provide to any person, upon request, the name and address of the agent for any company, or in the alternative, a list of all such agents.

(d) Any company, association, group, or organization that fails to comply with the requirements of subsection (b) of this section shall be guilty of a misdemeanor and shall be fined not more than \$500 a day for each violation. Civil fines, penalties, and fees may be imposed as alternative sanctions on any company, association, group, or organization that fails to comply with the requirements of subsection (b) of this section, or any rules or regulations issued pursuant to this section. Any company, association, group, or organization against which a fine, penalty, or fee has been imposed may, within 30 days after notice of the penalty is sent, contest the imposition or the amount of the civil fine, penalty, or fee. The hearing shall commence not less than 10 days nor more than 30 days from the date the request for the hearing is received by the Commissioner. The hearing shall be conducted according to the rules for contested cases enumerated in Title 26 (Insurance) of the District of Columbia Municipal Regulations (26 DCMR).

(e) The Commissioner shall maintain as confidential any documents or information received from the National Association of Insurance Commission-

ers or insurance departments of other states which is confidential in such other jurisdictions. The Commissioner may share information, including otherwise confidential information, with the National Association of Insurance Commissioners or insurance departments of other states so long as such other jurisdictions agree to maintain the same level of confidentiality as is available under District of Columbia law.

(Mar. 3, 1901, 31 Stat. 1290, ch. 854, § 646; Jan. 17, 1912, 37 Stat. 53, ch. 11; June 14, 1994, D.C. Law 10-128, § 404, 41 DCR 2096; Mar. 21, 1995, D.C. Law 10-233, § 2, 42 DCR 24; Apr. 18, 1996, D.C. Law 11-110, § 35, 43 DCR 530; May 24, 1996, D.C. Law 11-121, § 2, 43 DCR 1538; May 21, 1997, D.C. Law 11-268, § 10(d), 44 DCR 1730; Mar. 24, 1998, D.C. Law 12-81, § 19, 45 DCR 745.)

Cross references. — Certificate of authority of fire, casualty, or marine insurance company, revocation or suspension, see § 31-2502.03.

Domestic ceding insurers, compliance with this section, see § 31-501.

Election to convert stock company to mutual company, rules and regulations governing, see § 31-4419.

Failure of domestic company to keep books, records, and files within District, effect, see § 31-5204.

Failure to file annual statements, effect, see § 47-2607.

Foreign and alien life companies, proof of compliance with this section, see § 31-4501.

Foreign or alien fire, casualty and marine insurers, proof of compliance with this section, see § 31-2502.22.

Hospital and medical services corporation, proof of compliance with this section, see § 31-3503.

Insurance under Employees' Compensation Act, see § 31-5205.

Licenses for insurance companies, see § 47-2603.

Life and fire insurance, compliance with this section, see § 31-5201.

Merger or consolidation, foreign and domestic companies, agent for service of process, see § 31-4446.

Organization permits of domestic life companies, revocation or suspension, see § 31-4406.

Reinsurance intermediary, compliance with this section, see § 31-1802.

Revocation or suspension of license or certificate of authority of life insurance companies, see § 31-4305.

Revocation or suspension of permit for impairment of capital, see § 31-5202.

Risk retention groups doing business in district not chartered in district, compliance with requirements of this section, see § 31-4103.

Risk retention purchasing groups, proof of compliance with this section, see § 31-4107.

Section references. — This section is referenced in § 31-501, § 31-1802, § 31-2502.22, § 31-3503, § 31-3931.11, § 31-4103, § 31-4107, § 31-4446, § 31-4501, and § 31-5201.

Prior Codifications. — 1981 Ed., § 35-102. 1973 Ed., § 35-102.

Legislative history of Law 10-128. — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

Legislative history of Law 10-233. — Law 10-233, the "Insurers Service of Process Act of 1994," was introduced in Council and assigned Bill No. 10-666, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-376 and transmitted to both Houses of Congress for its review. D.C. Law 10-233 became effective on March 21, 1995.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

Legislative history of Law 11-121. — Law 11-121, the "Insurance Confidentiality of Information Act of 1996," was introduced in Council and Assigned Bill No. 11-168, which was referred to the Committee on Consumer and

Regulatory Affairs. The Bill was adopted on first and second readings on February 6, 1996, and March 5, 1996, respectively. Signed by the mayor on March 15, 1996, it was assigned Act No. 11-228 and transmitted to both Houses of Congress for its review. D. C. Law 11-121 became effective on May 24, 1996.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-201.

Legislative history of Law 12-81. — Law 12-81 the "Technical Amendments Act of 1998,"

was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on the first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

Editor's notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 31-201.

CASE NOTES

ANALYSIS

Construction and application.

Insurance.

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Construction and application.

Statutes regulating business of insurance were not intended for application to all organizations having some element of risk assumption or distribution in their operations. D.C. Code 1961, §§ 35-101, 35-404, 35-1305. Metropolitan Police Retiring Ass'n v. Tobriner, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

The legislation relating to insurance in District of Columbia is so elaborate that court is not inclined to strain its coverage to include an activity left uncovered by the ordinary meaning of language used. D.C. Code 1961, §§ 35-102, 35-105, 35-202, 35-1320, 35-1321. Metropolitan Police Retiring Ass'n v. Tobriner, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

Statutes designed to regulate the business of insurance or that of indemnity, growing out of experience with them and evils developing in them, were not intended to apply to all organizations having some element of risk assumption or distribution in their operations. Jordan v. Group Health Ass'n, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The word "corporation" as used in provisions of statutes exempting from provisions relating to regulation, licensing, and control of insurance companies, relief associations not conducted for profit composed solely of officers and enlisted men of the army or navy, or solely of employees of any other branch of the United States government service, or solely of employees of any individual company, firm, or corporation refers to private concerns and not to governmental agencies, particularly if they are included within preceding classifications. D.C. Code 1929, T. 5, §§ 121-126, 179; D.C. Code Supp. III, 1937, T. 20, § 966, subsec. 8. Jordan v. Group Health Ass'n, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The superintendent of insurance of this district has no power to make and enforce an interpretation of the laws of the district relating to insurance companies, agents, or brokers; such power being a judicial one, which can be exercised by the courts alone. Drake v. U.S. ex rel. Bates, 30 App.D.C. 312 (1908).

Code D.C. § 646, 31 Stat. 1290, c. 854, requiring the superintendent of insurance to keep on file copies of the charters of insurance companies doing business in this district, and providing that before such companies shall be licensed to do business they shall file with him copies of their charters, and section 647, requiring the "hereinbefore mentioned" companies to make annual statements of their financial condition to the superintendent, do not apply to domestic companies, but only to nonresident companies seeking to do business here. Drake v. U.S. ex rel. Bates, 30 App.D.C. 312 (1908).

Insurance.

Where metropolitan police retiring association was incorporated as a charitable organization, membership was limited to members of metropolitan police department, the White House police, and park police, purpose of association was to furnish financial relief to members in case of their retirement from police force, and payments upon retirement were principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. D.C. Code 1961, §§ 29-601, 35-101, 35-102, 35-105, 35-202, 35-404, 35-1305, 35-1320, 35-1321. Metropolitan Police Retiring Ass'n v. Tobriner, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

The absence of a profit motive and facts that metropolitan police retiring association possesses a representative government and engages in no solicitation of the public, add some

though not controlling support to view that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. D.C. Code 1961, §§ 35-102, 35-105, 35-202, 35-1320, 35-1321. *Metropolitan Police Retiring Ass'n v. Tobriner*, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

"Insurance" involves distribution of a risk, and whether a contract is one of "insurance" or of "indemnity", each involves contractual security against anticipated loss, and there must be a risk of loss to which one party may be subjected by contingent or future events and an assumption of it by legally binding arrangement by another. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The question whether an arrangement is one of insurance within the laws of the District of Columbia relating to insurance companies turns not on whether risk is involved or assumed but on whether that or something else to which it is related in the particular plan is its principal object and purpose. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

A group health association incorporated as a non-profit relief association to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service, is not within the purview of laws of the District of Columbia relating to insurance or to organizations providing for the payment of indemnity on account of sickness or accident, particularly in view of provision in by-law that association should not be liable to its members or their dependents for any act of omission or commission on the part of physicians or other persons with whom it may contract for the rendition of services to them. D.C. Code 1929, T. 5, §§ 121-126, 172, 173, 176, 178, 179, 184-215; D.C. Code Supp. III, 1937, T. 20, § 966. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

In determining whether a group health association was engaged in the business of insurance in the District of Columbia in violation of law and was within the purview of laws relating to insurance companies, the court was concerned with the plan as a whole and not with artificially segregated single phases of the plan. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

A group health association incorporated as a non-profit relief association to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service, in-

cluding employees of the Home Owners' Loan Corporation, falls within provisions of statutes exempting from provisions relating to regulations, licensing, and control of insurance companies, relief associations not conducted for profit composed solely of officers and enlisted men of the army or navy, or solely of employees of any other branch of the United States government service, or solely of employees of any individual company, firm, or corporation, since for purposes of exemption, employees of Home Owners' Loan Corporation should be held to be employees of the executive department. D.C. Code 1929, T. 5, §§ 121-126, 179; D.C. Code Supp. III, 1937, T. 20, § 966, subsec. 8. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The Superintendent of Insurance for the District of Columbia had no standing to challenge generally and without regard to features of insurance or indemnity the validity of the incorporation of a group health association incorporated as a non-profit corporation to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service. D.C. Code 1929, T. 5, §§ 121-126. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

A "mutual insurance company" is one in which the members are both the insurers and the insured, sometimes through a fund made up of cash premiums or of premium notes, and sometimes by assessment laid on all members, whereas the purpose of "stock insurance company" is primarily to earn money for the stockholders. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

Licensing.

Under District of Columbia Insurance Code, mutual insurance company can obtain a license and do business if it has an organization and maintains thereafter a surplus of \$10,000 and a fund in excess of its present liabilities equal to premium advances, which shall not be less than \$10,000. D.C. Code 1929, T. 5, § 187. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

When an insurance broker or agent takes out a license under Code D.C. § 654 (31 Stat. 1292, c. 854), forbidding any person, firm, or corporation to act as agent for any insurance company without first obtaining a license, he may act as agent of any company or companies and may procure insurance in any company authorized to do business in the district; and insurance companies doing business in the District of Columbia are under no obligation to apply for

licenses for their brokers or agents. *Drake v. U.S. ex rel. Bates*, 30 App.D.C. 312 (1908).

In respect to issuing general insurance licenses to persons desiring to do business as insurance broker or agents in this district, the superintendent of insurance is a ministerial officer, vested with no discretionary power to refuse such a license when the statutory fee is paid or tendered; and he may be compelled by mandamus to issue such a license upon compliance of the applicant with such condition. *Drake v. U.S. ex rel. Bates*, 30 App.D.C. 312 (1908).

Rules and regulations.

Regulation prohibiting auto, fire or casualty insurer from considering geographical location in determining whether to insure or continue to insure a risk in the District of Columbia except in cases of overconcentration of liability in a single high risk area and regulation prohibiting cancellation of auto, fire and casualty policies only for specified reasons are within the police power accorded to the District of Columbia by congressional enactment. D.C. Code § 1-226. *Firemen's Ins. Co. v. Washington*, 483 F.2d 1323, 1973 U.S. App. LEXIS 8554 (C.A.D.C. 1973).

District of Columbia regulation generally precluding the insurance company from considering geographic location in determining whether to insure or continue to insure auto, fire and casualty risks in district and prohibiting cancellation of those policies for other than specified conditions do not conflict with specific provisions of the District of Columbia Insurance Code or the Automobile Insurance Plan and were not preempted thereby; with respect to basic property insurance regulation prohibiting geographic discrimination did conflict with and was preempted by the District of Columbia Insurance Placement Act. D.C. Code §§ 1-226, 35-1503(c), 35-1505, 35-1505(d), 35-1701 et seq.; National Housing Act, § 1201, 12 U.S.C. § 1749bbb. *Firemen's Ins. Co. v. Washington*, 483 F.2d 1323, 1973 U.S. App. LEXIS 8554 (C.A.D.C. 1973).

When purposes for which statutory regulations of insurance in District of Columbia were enacted have no significance in a particular situation, that serves as a guide in determining whether a particular activity is not within the regulations. D.C. Code 1961, §§ 35-102, 35-105, 35-202, 35-1320, 35-1321. *Metropolitan Police Retiring Ass'n v. Tobriner*, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

A District of Columbia mutual insurance company could enjoin superintendent of insurance of District of Columbia from enforcing void rules of superintendent regulating reserves, costs of operation, declaration of dividends and payment of salaries and fees by mutual insurance companies writing taxicab insurance, and

from canceling company's license for failure to obey such regulations. Act June 29, 1938, 52 Stat. 1233; D.C. Code 1929, T. 5, § 171 et seq. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

Rules of superintendent of insurance of District of Columbia regulating reserves, costs of operation, declaration of dividends and payment of salaries and fees by mutual insurance companies writing taxicab insurance were invalid as not within the authority of superintendent. Act June 29, 1938, 52 Stat. 1233; D.C. Code 1929, T. 5, § 171 et seq. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

The general insurance law of District of Columbia does not give the superintendent of insurance of the District the power to make regulations governing in the minutest detail the operation and business of an insurance company. D.C. Code 1929, T. 5, § 171 et seq. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

In absence of statutory authority, superintendent of insurance of District of Columbia cannot add to, amend, or alter insurance law by regulations, but can only make rules consistent with the provisions of such law. D.C. Code 1929, T. 5, § 171 et seq. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

A rule of superintendent of insurance of District of Columbia authorizing superintendent to withdraw certification of company writing taxicab insurance for failure to comply with regulations applicable to such companies was invalid as an assumption of power nowhere extended and as contrary to rights to trial and conviction before imposition of such drastic penalty. Act June 29, 1938, 52 Stat. 1233. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

A rule of superintendent of insurance of District of Columbia forbidding company writing taxicab insurance to promise to pay dividend or reward to any policyholder unless approved by superintendent was proper on ground that promise to pay dividends was equivalent to rebate, but not to extent of authorizing superintendent to control payment of reasonable dividends when declared out of earnings in ordinary course of business. Act June 29, 1938, 52 Stat. 1233. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

A rule of the superintendent of insurance of District of Columbia applicable to companies writing taxicab insurance, defining rebating and calling attention to prohibition against rebating, was valid under provision of District

of Columbia Insurance Code prohibiting rebating. D.C. Code 1929 T. 5, § 180. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

Rules of superintendent of insurance of District of Columbia providing that taxicab insurance policies must be in a form approved by superintendent are valid as being in furtherance of provision of Compulsory Taxicab Insurance Act that taxicab insurance must be "in such form and on such terms or conditions" as the Public Utilities Commission may direct. Act June 29, 1938, 52 Stat. 1233. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

The words "write insurance" and "fix maximum rates" in Taxicab Act authorizing superintendent of insurance of District of Columbia to make rules relating to writing of taxicab insurance and fixing of maximum rates authorized superintendent to control solicitation of insurance, terms and conditions of contract, rates to be charged and enforcement of provisions of the act and the general insurance law, and enabled superintendent to prohibit unreasonable commissions to agents. Act June 29, 1938, 52 Stat. 1233. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

Rules of superintendent of insurance of District of Columbia requiring companies writing taxicab insurance to collect premiums in advance and to give Public Utilities Commission five days' notice of cancellation of policies and to keep complete records of accidents, claims and suits and to make payments by company check,

and to keep record of policies issued and lapsed, and to collect no charge or policy fee in addition to premium are valid as being in furtherance of declared policy of Taxicab Act to fix maximum rates and to make taxicab insurance compulsory. Act June 29, 1938, 52 Stat. 1233. *Hutchins Mut. Ins. Co. of District of Columbia v. Hazen*, 105 F.2d 53, 1939 U.S. App. LEXIS 4736 (1939).

Code D.C. § 646, 31 Stat. 1290, c. 854, giving to the superintendent of insurance of this district power "to make such rules and regulations, subject to the general supervision of the commissioners, not inconsistent with law, as to make the conduct of each company in the same line of insurance to conform in doing business in the District," does not authorize the superintendent to make regulations for the classification of persons required to take out "general insurance licenses," by the provisions of Code D.C. § 654, 31 Stat. 1292, c. 854, which requires insurance brokers and agents to take out such licenses. *Drake v. U.S. ex rel. Bates*, 30 App.D.C. 312 (1908).

District of Columbia city council did not have authority under either its police power or the Insurance Code to pass insurance regulations designed to prohibit geographic discrimination and arbitrary cancellation of policies within the District. Reorganization Plan No. 3 of 1967, §§ 402(4), 406, D.C. Code Tit. 1, Appendix I; D.C. Code §§ 1-226, 35-102, 35-1701 to 35-1711. *Firemen's Ins. Co. v. Washington*, 333 F. Supp. 951, 1971 U.S. Dist. LEXIS 11190 (1971), affirmed in part and reversed in part by 483 F.2d 1323, 157 U.S. App. D.C. 320, 1973 U.S. App. LEXIS 8554 (1973).

§ 31-203. Required annual financial statements of companies or associations — Contents; publication. [Repealed].

Repealed.

(Oct. 21, 1993, D.C. Law 10-42, § 7(a), 40 DCR 6020.)

Prior Codifications. — 1981 Ed., § 35-103.

Legislative history of Law 10-42. — Law 10-42, the "Required Annual Financial Statements and Participation in the NAIC Insurance Regulatory Information System Act of 1993," was introduced in Council and assigned Bill No. 10-129, which was referred to the Committee on Consumer and Regulatory Affairs. The

Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 4, 1993, it was assigned Act No. 10-77 and transmitted to both Houses of Congress for its review. D.C. Law 10-42 became effective on October 21, 1993.

§ 31-204. Required annual financial statements of companies or associations — Foreign companies or associations.

The financial statements of insurance companies or associations, required

hereby to be filed annually with the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking], shall set forth specifically the assets, liabilities, and conduct of the affairs within the United States of companies or associations organized outside of the territorial limits of the United States, and such statement shall be verified under oath by the manager and assistant manager or other proper officers of such companies or associations within the United States; and so much of this chapter as requires the publication of annual statements shall only extend to the statements respecting the affairs of such foreign companies or associations within the United States.

(Mar. 3, 1901, 31 Stat. 1291, ch. 854, § 649; May 21, 1997, D.C. Law 11-268, § 10(d), 44 DCR 1730.)

Cross references. — Annual statements and taxes, see § 31-5202.

Taxation and fiscal affairs of insurance companies, see § 47-2601 et seq.

Prior Codifications. — 1981 Ed., § 35-104. 1973 Ed., § 35-104.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-201.

Editor's notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 31-201.

§ 31-205. Required annual statement of business; tax payments; annuities exemption.

(a) Every insurance company and association doing business in the District of Columbia shall, through its local agents or representatives, furnish to the Commissioner, during the month of January of each year, a statement of its business in the District, setting forth specifically the net amount of its premium receipts, the amount of losses paid, the amount of expenses incurred, respecting the business done in the District during the calendar year next preceding, and the Commissioner shall preserve a separate record of the same in his office for convenient reference, showing the ratio of such losses and expenses, respectively, to the premium receipts.

(b) Every insurance company or association of whatever kind or character, not including fraternal beneficiary associations, shall, as required by law, pay to the Director of the Department of Finance and Revenue, or to a depository designated by the Director, in lieu of all other taxes, except taxes upon real estate and any license fees provided for in § 31-804 [repealed] an amount equal to the following:

(1)(A) Two percent of the gross amount of premiums received during the preceding calendar year by every life insurance company or association, not including fraternal beneficiary associations, or the gross payments or deposits collected from holders of fraternal beneficiary association certificates, on contracts of insurance covering risks resident in the District during the preceding year, including contracts for group insurance and annuities and without including or deducting any amounts received or paid for reinsurance.

(B) In determining the gross amount of premiums to be taxed, there shall be excluded all premiums received from policies or contracts issued in connection with a pension, annuity, profit-sharing plan or individual retirement annuity qualified or exempt under §§ 401, 403, 404, 408, or 501(a) of the

Internal Revenue Code, or successor provisions, and all premiums returned to policyholders or annuitants during the preceding calendar year, except cash surrender values, all dividends that, during the year, have been paid in cash or applied in reduction of premiums or left to accumulate to the credit of policyholders or annuitants.

(C) In determining the gross amount of premiums to be taxed, there shall be excluded all consideration received in connection with an annuity contract whether or not such contract is qualified or exempt under the Internal Revenue Code, and all premiums returned to policyholders or annuitants during the preceding calendar year, except cash surrender values, and all dividends that, during said year, have been paid in cash or applied in reduction of premiums or left to accumulate to the credit of policyholders or annuitants.

(2) Two percent of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in the District, after deducting the amount returned upon canceled policies, certificates, and rejected applications.

(3) Except as provided in paragraph (4) of this subsection, the premium tax shall be paid on or before March 1 of the year following the calendar year for which the tax is due. The Commissioner may suspend or revoke the license of a company or association that fails to pay premium tax on or before the due date.

(4) Each insurance company and association transacting business in the District whose District premium tax liability for the preceding calendar year was \$1,000 or more shall remit on or before June 1, on a prepayment basis, an amount equal to one-half of the premium tax liability for the preceding calendar year. The sums prepaid by a company or association under this subsection shall be allowed as credits against its premium tax liability for the calendar year during which the payments are made. If a prepayment made under this subsection exceeds the annual premium tax liability, the excess shall be allowed as a credit against subsequent prepayment or tax liabilities. The Commissioner may suspend or revoke the license of a company or association that fails to make a prepayment on or before the due date.

(c) A hospital service corporation or medical service corporation may deduct, up to \$550,000, the corporation's payment to the rate stabilization fund under § 31-3514 and payments and expenditures pursuant to a public-private partnership entered into in accordance with Chapter 35 of this title from the amount otherwise due by the corporation under subsection (b) of this section.

(d) The Commissioner shall determine whether or not the tax remitted is correct. If the tax remitted is not sufficient, the Commissioner shall notify the delinquent company of the amount of such delinquency and certify the amount thereof to the Department of Finance and Revenue which shall proceed to collect such delinquency.

(e) An insurer may offset an assessment made pursuant to § 31-5406 ("Life and Health Insurance Guaranty Association Act"), against its premium tax liability pursuant to § 31-5410 to the extent of 10% of the amount of the assessment for each of the 10 calendar years following the year in which the

assessment was paid. If an insurer ceases doing business, all uncredited assessments may be credited against its premium tax liability for the year it ceases doing business.

(f)(1) When by the laws of any other jurisdiction a premium or income or other taxes, or fees, fines, penalties, licenses, deposit requirement, or other obligations, prohibitions or restrictions are imposed upon District domestic insurance companies doing business in the other jurisdiction, or upon the agents of District companies, which in the aggregate are in excess of the aggregate of the taxes, fees, fines, penalties, licenses, deposit requirements or other obligations, prohibitions or restrictions directly imposed upon insurance companies of the other jurisdiction under the statutes of the District, the same obligations, prohibitions or restrictions for whatever kind are in the same manner and for the same purpose imposed upon insurance companies of the other jurisdiction doing business in the District.

(2) Insurance premium taxes paid which were not paid under protest shall not be refunded if the refund claim is based upon an alleged error or mistake of law or erroneous interpretation of statute regarding the validity or legality of this section under the laws or constitution of the United States.

(3) For the purpose of this section, an alien insurer is deemed domiciled in a United States jurisdiction designated by it wherein it has established its principal office or agency in the United States, maintains the largest amount of its assets held in trust or on deposit for the security of its policyholders or policyholders and creditors in the United States, or in which it was admitted to do business in the United States.

(4) This section does not apply to ad valorem taxes on real or personal property or to personal income taxes.

(Mar. 3, 1901, 31 Stat. 1291, ch. 854, § 650; June 30, 1902, 32 Stat. 534, ch. 1329; May 21, 1997, D.C. Law 11-268, 44 DCR 1730; Apr. 29, 1998, D.C. Law 12-86, § 201, 45 DCR 1172; Mar. 2, 2007, D.C. Law 16-192, § 5013(a), 53 DCR 6899; Feb. 4, 2010, D.C. Law 18-104, § 4(a), 56 DCR 9182; Sept. 24, 2010, D.C. Law 18-223, § 2182, 57 DCR 6242.)

Cross references. — Annual statements and taxes, see § 31-5202.

Insurance companies, taxation and fiscal affairs, see § 47-2601 et seq.

Liability for failure to pay tax, see § 47-2609.

Retaliatory charges against certain insurance companies, see § 47-2610.

Section references. — This section is referenced in § 31-3514, § 31-5231, and § 31-5233.

Prior Codifications. — 1981 Ed., § 35-105. 1973 Ed., § 35-105.

Effect of amendments. — D.C. Law 16-192, in subsec. (b), deleted “and nonprofit hospital and medical service corporations” following “beneficiary associations”; and rewrote subsec. (c) which had read as follows: “(c) Notwithstanding section 105, a hospital service corporation, medical service corporation, pharmaceutical service corporation, optometric ser-

vice corporation and any other health service corporation shall pay as taxes to the director of the Department of Finance and Revenue an amount equal to 1% of the gross amount of payments received during the preceding calendar year for subscriber contracts covering residents in the District after deducting the amounts returned to subscribers upon canceled subscriber contracts and rejected applications.”

D.C. Law 18-104, in subsec. (c), substituted “payment to the rate stabilization fund under § 31-3514, and payments and expenditures pursuant to a public-private partnership entered into in accordance with Chapter 35 of this title,” for “payment to the rate stabilization fund under § 31-3514.”

D.C. Law 18-223, in subsecs. (b)(1A) and (2), substituted “Two” for “One and seven tenths”.

Temporary Amendment of Section. — For temporary (225 day) amendment of section,

see § 4(a) of the Hospital and Medical Services Corporation Regulatory Temporary Amendment Act of 2010 (D.C. Law 18-134, March 23, 2010, law notification 57 DCR 3373).

Emergency legislation. — For temporary (90 day) amendment of section, see § 5013(a) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 5013(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 5013(a) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 4(a) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18-277, January 11, 2010, 57 DCR 935).

For temporary (90 day) amendment of section, see § 2182 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

Legislative history of Law 1-124. — Law 1-124, the “Revenue Act for Fiscal Year 1978,” was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-201.

Legislative history of Law 12-86. — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

Legislative history of Law 16-192. — Law 16-192, the “Fiscal Year Budget Support Act of 2006,” was introduced in Council and assigned Bill No. 16-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 9, 2006, and June 6, 2006, respectively. Signed by the Mayor on August 8, 2006, it was assigned Act No. 16-476 and transmitted to both Houses of

Congress for its review. D.C. Law 16-192 became effective on March 2, 2007.

Legislative history of Law 18-104. — Law 18-104, the “Hospital and Medical Services Corporation Regulatory Amendment Act of 2009,” was introduced in Council and assigned Bill No. 18-401, which was referred to the Committee on Public Services and Consumer Affairs. The bill was adopted on first and second readings on October 6, 2009, and November 3, 2009, respectively. Signed by the Mayor on November 30, 2009, it was assigned Act No. 18-239 and transmitted to both Houses of Congress for its review. D.C. Law 18-104 became effective on February 4,

References in text. — “Sections 401, 403, 404, 408, and 501(a) of the Internal Revenue Code,” referred to in (b)(1)(B), are codified at 26 U.S.C. §§ 401, 403, 404, 408, and 501(a), respectively.

Pursuant to the Office of the Chief Financial Officer’s “Notice of Public Interest” published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner’s Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

Editor’s notes. — Application of Law 12-86: Section 203 of D.C. Law 12-86 provided that the provisions of title II of the act shall be applicable to premiums received during the calendar year beginning Jan. 1, 1998, and subsequent years.

Office of Collector of Taxes abolished: The Office of the Collector of Taxes was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Collector of Taxes including the functions of all officers, employees, and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3, dated August 28, 1952. Reorganization Order No. 20, dated November 10, 1952, transferred the functions of the Collector of Taxes to the Finance Office. The same Order provided for the Office of the Collector of Taxes headed by a Collector in the Finance Office, and abolished the previously existing Office of the Collector of Taxes. Reorganization Order No. 20 was superseded and replaced by Organization Order No. 121, dated December 12, 1957, which provided that the Finance Office (consisting of the Office of the Finance Officer, Property Tax Division, Revenue Division, Treasury Division, Accounting Division, and Data Processing Division) would continue under the direction and control of the Director of General Administration, and that the Treasury Division would perform the

function of collecting revenues of the District of Columbia and depositing the same with the Treasurer of the United States. Organization Order No. 121 was revoked by Organization Order No. 3, dated December 13, 1967, Part IVC of which prescribed the functions of the Finance Office within a newly established Department of General Administration. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions of the Finance Office as stated in Part IVC of Organization Order No. 3 were transferred to the Director of the Department of Finance and Revenue by Commissioner's Order No. 69-96, dated March 7, 1969. The collection functions of the Director of the Department of Finance and Revenue were transferred to the District of Columbia Treasurer by § 47-316 on March 5, 1981.

Department of Insurance abolished: See Historical and Statutory Notes following § 31-201.

For temporary delay until Jan. 1, 1999, of the applicability of D.C. Law 12-86, as stated in § 203 of the Omnibus Regulatory Reform Amendment Act of 1998 (D.C. Law 12-86), see § 502 of the Health Insurance Portability and Accountability Federal Law Conformity, Motor Vehicle Insurance, Regulatory Reform, and Consumer Law Temporary Amendment Act of 1998 (D.C. Law 12-154, § 502).

Section 601(b) of D.C. Law 12-154 provided that the act shall expire after 225 days of its having taken effect.

For temporary delay of the provisions of § 203 of the Omnibus Regulatory Reform Amendment Act of 1998 (D.C. Law 12-86), see § 502 of the Health Insurance Portability and Accountability Federal Law Conformity Emergency Amendment Act of 1998 (D.C. Act 12-339, May 4, 1998, 45 DCR 2947).

CASE NOTES

ANALYSIS

Insurance.

Statement of business.

Insurance.

The absence of a profit motive and facts that metropolitan police retiring association possesses a representative government and engages in no solicitation of the public, add some though not controlling support to view that its activities are not within scope of statute primarily designed to protect insured vis-a-vis the insurer. D.C. Code 1961, §§ 35-102, 35-105, 35-202, 35-1320, 35-1321. *Metropolitan Police Retiring Ass'n v. Tobriner*, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

Where metropolitan police retiring association was incorporated as a charitable organization, membership was limited to members of metropolitan police department, the White House police, and park police, purpose of association was to furnish financial relief to members in case of their retirement from police force, and payments upon retirement were principally the amounts of retirees' own contributions with some increment of interest from investments which were required to be approved by majority of board of directors and by majority vote of membership in regular session, association was not engaged in "insurance" and hence was not required to obtain certificate of authority from Superintendent of Insurance. D.C. Code 1961, §§ 29-601, 35-101, 35-102, 35-105, 35-202, 35-404, 35-1305, 35-1320, 35-1321. *Metropolitan Police Retiring Ass'n v. Tobriner*, 306 F.2d 775, 1962 U.S. App. LEXIS 4731 (C.A.D.C. 1962).

"Insurance" involves distribution of a risk, and whether a contract is one of "insurance" or of "indemnity", each involves contractual security against anticipated loss, and there must be a risk of loss to which one party may be subjected by contingent or future events and an assumption of it by legally binding arrangement by another. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The word "corporation" as used in provisions of statutes exempting from provisions relating to regulation, licensing, and control of insurance companies, relief associations not conducted for profit composed solely of officers and enlisted men of the army or navy, or solely of employees of any other branch of the United States government service, or solely of employees of any individual company, firm, or corporation refers to private concerns and not to governmental agencies, particularly if they are included within preceding classifications. D.C. Code 1929, T. 5, §§ 121-126, 179; D.C. Code Supp. III, 1937, T. 20, § 966, subsec. 8. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The Superintendent of Insurance for the District of Columbia had no standing to challenge generally and without regard to features of insurance or indemnity the validity of the incorporation of a group health association incorporated as a non-profit corporation to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service. D.C. Code 1929, T. 5, §§ 121-126.

Jordan v. Group Health Ass'n, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The question whether an arrangement is one of insurance within the laws of the District of Columbia relating to insurance companies turns not on whether risk is involved or assumed but on whether that or something else to which it is related in the particular plan is its principal object and purpose. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

A group health association incorporated as a non-profit relief association to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service, is not within the purview of laws of the District of Columbia relating to insurance or to organizations providing for the payment of indemnity on account of sickness or accident, particularly in view of provision in by-law that association should not be liable to its members or their dependents for any act of omission or commission on the part of physicians or other persons with whom it may contract for the rendition of services to them. D.C. Code 1929, T. 5, §§ 121-126, 172, 173, 176, 178, 179, 184-215; D.C. Code Supp. III, 1937, T. 20, § 966. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

In determining whether a group health association was engaged in the business of insurance in the District of Columbia in violation of law and was within the purview of laws relating to insurance companies, the court was concerned with the plan as a whole and not with artificially segregated single phases of the plan. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

A group health association incorporated as a non-profit relief association to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service, including employees of the Home Owners' Loan Corporation, falls within provisions of statutes exempting from provisions relating to regulations, licensing, and control of insurance companies, relief associations not conducted for profit composed solely of officers and enlisted men of the army or navy, or solely of employees of any other branch of the United States government service, or solely of employees of any individual company, firm, or corporation, since for purposes of exemption, employees of Home Owners' Loan Corporation should be held to be employees of the executive department. D.C. Code 1929, T. 5, §§ 121-126, 179; D.C. Code Supp. III, 1937, T. 20, § 966, subsec. 8. *Jordan v. Group Health Ass'n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

Statement of business.

Code D.C. § 650, 31 Stat. 1290, c. 854, requiring every insurance company and association doing business in the District of Columbia to make an annual statement to the superintendent of insurance of the net amount of its premium receipts, and imposing an annual tax of 1 ½ per cent. upon such premium receipts, does not apply to domestic assessment companies, the receipts of which are from assessments levied against members for the purpose of paying benefits and defraying expenses. *American Home Life Ins. Co. v. Drake*, 30 App.D.C. 263, 1908 U.S. App. LEXIS 5529 (1908).

§ 31-206. Required annual reports of Commissioner — Contents.

The Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] shall report annually to the Mayor of the District, on or before the 31st day of March, the financial condition of each insurance company and association doing business in said District, as of the 31st day of December next preceding.

(Mar. 3, 1901, 31 Stat. 1292, ch. 854, § 651; May 21, 1997, D.C. Law 11-268, § 10(d), 44 DCR 1730.)

Cross references. — Hospital and medical services corporations, applicability of this section, see § 31-3503.

Section references. — This section is referenced in § 31-3503.

Prior Codifications. — 1981 Ed., § 35-106. 1973 Ed., § 35-106.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-201.

Editor's notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 35-101.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 31-207. Required annual reports of Commissioner — Publication and distribution.

After May 18, 1910, the annual reports of the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] shall be printed and bound in 1 volume, and shall be ready for distribution not later than the 1st day of the next regular session of Congress thereafter.

(May 18, 1910, 36 Stat. 379, ch. 248, § 1; May 21, 1997, D.C. Law 11-268, § 10(e), 44 DCR 1730.)

Cross references. — Hospital and medical services corporations, applicability of this section, see § 31-3503.

Section references. — This section is referenced in § 31-3503.

Prior Codifications. — 1981 Ed., § 35-107. 1973 Ed., § 35-107.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-201.

Editor's notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 31-201.

§ 31-208. Capital requirements of companies or associations.

It shall be the duty of the said Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] to ascertain whether the capital required by law or the charter of each insurance company or association organized under the laws of the District of Columbia has been actually paid up in cash and is held by its board of directors subject to their control, according to the provisions of their charter, or has been invested in property worth not less than the full amount of the capital stock required by its charter; or, if a mutual company, that it has received and is in actual possession of securities, as the case may be, to the full extent of the value required by its charter; and the president and secretary of such company or association shall make a declaration under oath to said Commissioner, who is hereby empowered to administer oaths when hereby required, that the tangible assets exhibited to him represent bona fide the property of the company or association, which sworn declaration shall be filed and preserved in the office of said Commissioner; and any such officer swearing falsely in regard to any of the provisions hereof shall be deemed guilty of perjury and

shall be subject to all the penalties prescribed by law in the District of Columbia for that crime.

(Mar. 3, 1901, 31 Stat. 1292, ch. 854, § 652; May 21, 1997, D.C. Law 11-268, § 10(d), 44 DCR 1730.)

Cross references. — Capital stock requirements, see § 31-5202.

Impairment of capital, see § 31-5201.

Inspection and examination of insurance companies, see §§ 31-5201 and 31-5202.

Prior Codifications. — 1981 Ed., § 35-108. 1973 Ed., § 35-108.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-201.

Editor's notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 31-201.

CHAPTER 2A. UNAUTHORIZED ENTITIES.

Sec.

31-231. Unauthorized entities.

31-232. Aiding or assisting unauthorized activity.

Sec.

31-233. Investigations and administrative and judicial enforcement.

§ 31-231. Unauthorized entities.

No person shall act as an insurer, or engage in any other activity, directly or indirectly, which is regulated in acts codified in Chapters 1 through 55 of this title unless performed within the scope of a certificate of authority issued by the Commissioner as provided by this chapter. The prohibitions in this chapter shall not apply to persons or entities engaging in activity pursuant to §§ 31-2502.39 and 31-2502.40.

(Mar. 8, 2007, D.C. Law 16-232, § 102, 54 DCR 368.)

Section references. — This section is referenced in § 31-232.

Legislative history of Law 16-232. — Law 16-232, the “Department of Insurance, Securities and Banking Omnibus Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-350, which was referred to Committee on Consumer and Regulatory Affairs. The

Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-588 and transmitted to both Houses of Congress for its review. D.C. Law 16-232 became effective on March 8, 2007.

§ 31-232. Aiding or assisting unauthorized activity.

No person shall aid or assist another person in unauthorized activity proscribed by § 31-231, including selling, soliciting, or negotiating for applications, policies, memberships, or other business.

(Mar. 8, 2007, D.C. Law 16-232, § 103, 54 DCR 368.)

Legislative history of Law 16-232. — For Law 16-232, see notes following § 31-231.

§ 31-233. Investigations and administrative and judicial enforcement.

(a) The Commissioner may make public or private investigations inside or outside of the District as he considers necessary to determine whether a person has violated, or is about to violate, any provision of this chapter, or any rule or order hereunder, to aid in the enforcement of this chapter, or to aid in the prescribing of rules and forms to implement this chapter.

(b) If the Commissioner determines that a person has engaged, is engaging, or is about to engage in any activity prohibited by this chapter or any rule or order adopted under this chapter, and that immediate action against such person is in the public interest, the Commissioner may issue a summary order directing the person to cease and desist from engaging in such activity; provided, that the summary cease and desist order shall give the person:

(1) Notice of the opportunity for a hearing before the Commissioner to

determine whether the summary cease and desist order should be vacated, modified, or entered as final, and that the hearing shall be conducted according to the rules for contested cases set forth in Chapter 38 of Title 26 of the District of Columbia Municipal Regulations; and

(2) Notice that the summary cease and desist order will be entered as final if the person does not request a hearing within 15 days of service of the order as provided in Chapter 5 of Title 2.

(c) If the Commissioner determines after a hearing, unless the right to a hearing is waived, that a person has engaged in any activity prohibited by this title or any rule or order adopted under this chapter, the Commissioner may, in addition to any other action in which he is authorized:

(1) Issue a cease and desist order against the person;

(2) Bar the person from engaging in the business of insurance;

(3) Issue an order against the person imposing a civil fine not exceeding the greater of \$10,000 per day of violation or twice the amount of money received by reason of the violation;

(4) Issue an order for restitution and any other actual loss or damage incurred by other persons; and

(5) Issue an order for payment of costs of the proceedings and reasonable expenses of any investigation.

(d) A person aggrieved by the Commissioner's order may appeal to the District of Columbia Court of Appeals pursuant to Chapter 5 of Title 2.

(e) The Commissioner may request the Office of the Attorney General to seek judicial enforcement of any Commissioner's Order entered against such person as provided in this chapter.

(f) Administrative and judicial enforcement instituted by the Commissioner or the Office of the Attorney General under this chapter shall not bar governmental actions pursuant to other provisions of law, including criminal investigation and prosecution.

(g) For purposes of an investigation or proceeding under this chapter, the Commissioner may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the Commissioner deems relevant or material to the inquiry.

(h) In case of contumacy by, or refusal to obey a subpoena issued to, a person, the Superior Court of the District of Columbia, upon application by the Commissioner, may issue to the person an order requiring the person to appear before the Commissioner to produce documentary evidence, or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished as a contempt of court.

(i) Persons damaged by any activity prohibited by this chapter shall have a private cause of action for damages, including attorneys' fees, and any other remedies provided by law.

(Mar. 8, 2007, D.C. Law 16-232, § 104, 54 DCR 368.)

Legislative history of Law 16-232. — For Law 16-232, see notes following § 31-231.

CHAPTER 3. ANNUAL AUDITED FINANCIAL REPORTS.

Sec.	Sec.
31-301. Definitions.	31-309. Communication of internal control related matters noted in audit.
31-302. General requirements for filing audited financial reports and audit committee appointments; extensions.	31-310. Accountant's letter of qualifications.
31-303. Contents of annual audited financial report.	31-311. Definition, availability, and maintenance of independent certified public accountant workpapers.
31-304. Designation of independent certified public accountant.	31-311.01. Requirements for audit committees.
31-305. Qualifications of independent certified public accountant.	31-311.02. Conduct of insurer in connection with the preparation of required reports and documents.
31-306. Consolidated or combined audits.	31-311.03. Management's report of internal control over financial reporting.
31-307. Scope of audit and report of independent certified public accountant.	31-312. Exemptions and effective dates.
31-308. Notification of adverse financial condition.	31-313. Canadian and British companies.
	31-314. Applicability.

§ 31-301. Definitions.

For the purposes of this chapter, the term:

(1) "Accountant" or "independent certified public accountant" means an independent certified public accountant or accounting firm in good standing with the American Institute of Certified Public Accountants and in all states in which they are licensed to practice; for Canadian and British companies, it means a Canadian-chartered or British-chartered accountant.

(1A) "Affiliate" or "affiliated person" means an individual or entity that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the individual or entity.

(1B) "Audit committee" means a committee established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers and the audits of financial statements of the insurer or group of insurers. The audit committee of any entity that controls a group of insurers may be deemed to be the audit committee for one or more of the controlled insurers for the purposes of this chapter at the election of the controlling person pursuant to § 31-311.01(e). If an audit committee is not designated by the insurer, the insurer's entire board of directors shall constitute the audit committee.

(2) "Audited financial report" means and includes those items specified in § 31-303.

(2A) "Indemnification" means an agreement of indemnity or a release from liability if the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing of other misrepresentations made by the insurer or its representatives.

(3) "Insurer" means a licensed insurer or authorized company which has authority from the Mayor [now Commissioner] to do business in the District of Columbia as provided under §§ 31-2502.02 and 31-4304.

(3A) "Group of insurers" means those licensed insurers included in the

reporting requirements of subchapter I of Chapter 7 of this title [§ 31-701 et seq.], or a set of insurers as identified by management for the purpose of assessing the effectiveness of internal control over financial reporting.

(3B) “Internal control over financial reporting” means a process effected by an entity’s board of directors, management, and other personnel designed to provide reasonable assurance regarding the reliability of the financial statements, including compliance with § 31-303(2) through (7), and includes such other policies and procedures that:

(A) Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the acquisition and disposition of assets;

(B) Provide reasonable assurance that:

(i) Transactions are recorded as necessary to permit preparation of the financial statements; or

(ii) Receipts and expenditures are made only in accordance with management and director authorization; and

(C) Provide reasonable assurance regarding:

(i) Prevention or timely detection of unauthorized acquisitions; or

(ii) The use or disposition of assets that could have a material effect on the financial statements.

(4) “NAIC” means the National Association of Insurance Commissioners.

(5) “SEC” means the United States Securities and Exchange Commission.

(6) “Section 404” means § 404 of the Sarbanes-Oxley Act of 2002, approved July 30, 2002 (116 Stat. 745; 15 U.S.C. § 7201 et seq.), and the rules and regulations promulgated thereunder.

(7) “Section 404 Report” means management’s report on internal control over financial reporting as defined by the SEC and the related attestation report of the independent certified public accountant.

(8) “SOX Compliant Entity” means an entity that is required to be compliant with or is voluntarily compliant with:

(A) Section 10A(h) of the Securities Exchange Act of 1934, approved June 6, 1934 (105 Stat. 762; 15 U.S.C. § 78j-l(h)) (preapproval requirements);

(B) Section 10A(m)(3) of the Securities Exchange Act of 1934, approved December 22, 1995 (109 Stat. 762; 15 U.S.C. § 78j-l(m)(3)) (audit committee independence requirements); and

(C) The internal control over financial reporting requirements of Section 404 and 17 C.F.R. § 229.308 (Item 308 of SEC Regulation S-K).

(Oct. 21, 1993, D.C. Law 10-48, § 2, 40 DCR 6102; Mar. 12, 2011, D.C. Law 18-317, § 2(a), 57 DCR 12418.)

Section references. — This section is referenced in § 31-314 and § 31-3931.13.

Prior Codifications. — 1981 Ed., § 35-3201.

Effect of amendments. — D.C. Law 18-317 added pars. (1A), (1B), (2A), (3A), (3B), and (5) to (8).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of Annual Financing Reporting Modernization

Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(a) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — Law 10-48, the “Annual Audited Financial Reports Act of 1993,” was introduced in Council and

assigned Bill No. 10-127, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 4, 1993, it was assigned Act No. 10-93 and transmitted to both Houses of Congress for its review. D.C. Law 10-48 became effective on October 21, 1993.

Legislative history of Law 18-317. — Law 18-317, the “Annual Financial Reporting Modernization Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-773, which was referred to the Committee Public Services and Consumer Affairs. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respec-

tively. Signed by the Mayor on December 9, 2010, it was assigned Act No. 18-638 and transmitted to both Houses of Congress for its review. D.C. Law 18-317 became effective on March 12, 2011.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 10-48, the Annual Audited Financial Reports Act of 1993, see Mayor’s Order 94-54, March 7, 1994 (41 DCR 1433).

Editor’s notes. — Mayor authorized to issue rules: Section 16 of D.C. Law 10-48 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1 [subchapter I of Chapter 5 of Title 2, 2001 Ed.], issue rules to implement the provisions of this chapter.

§ 31-302. General requirements for filing audited financial reports and audit committee appointments; extensions.

(a) All insurers shall have an annual audit prepared by an independent certified public accountant and shall file an audited financial report with the Mayor on or before June 1st for the year ended December 31st immediately preceding. The Mayor may require an insurer to file an audited financial report earlier than June 1st with 90 days advance notice to the insurer.

(b) Extensions of the June 1st filing date may be granted by the Mayor for 30-day periods upon showing by the insurer and its independent certified public accountant the reasons for requesting the extension and determination by the Mayor of good cause for an extension. The request for extension must be submitted in writing not less than 10 days prior to the due date in sufficient detail to permit the Mayor to make an informed decision with respect to the requested extension.

(c) If an extension is granted in accordance with the provisions in subsection (b) of this section, an extension for the same 30-day period shall be granted for the filing of a management’s report of internal control over financial reporting.

(d) An insurer required to file an annual audited financial report pursuant to this chapter shall establish an audit committee. If the insurer is controlled by a controlling person or entity, the audit committee of the controlling entity, in compliance with § 31-311.01(e), may serve as the audit committee for the subject insurer for purposes of this chapter.

(Oct. 21, 1993, D.C. Law 10-48, § 3, 40 DCR 6102; Mar. 12, 2011, D.C. Law 18-317, § 2(b), 57 DCR 12418.)

Section references. — This section is referenced in § 31-313 and § 31-314.

Prior Codifications. — 1981 Ed., § 35-3202.

Effect of amendments. — D.C. Law 18-317 rewrote the section heading, which had read as follows: “Filing and extensions for filing of an-

nual audited financial reports.”; and added subsecs. (c) and (d).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(b) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(b) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — For

legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-303. Contents of annual audited financial report.

The annual audited financial report shall report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flow, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the jurisdiction where it is domiciled. The annual audited financial report shall include the following:

- (1) Report of an independent certified public accountant;
- (2) Balance sheet reporting admitted assets, liabilities, capital, and surplus;
- (3) Statement of operations;
- (4) Statement of cash flows;
- (5) Statement of changes in capital and surplus;
- (6) Notes to the financial statements, which shall:
 - (A) Be those required by the appropriate NAIC annual statement instructions and the NAIC Accounting Practices and Procedures Manual; and
 - (B) Include a reconciliation of differences, if any, between the audited statutory financial statement and the annual statement filed pursuant to Chapter 19 of this title [§ 31-1901 et seq.], and a written description of the nature of these differences; and
- (7) The financial statements included in the audited financial report shall be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the Mayor, and the financial statement shall be comparative, presenting the amounts as of December 31st of the current year and the amounts as of the immediately preceding December 31st. However, in the first year in which an insurer is required to file an audited financial report, the comparative data may be omitted.

(Oct. 21, 1993, D.C. Law 10-48, § 4, 40 DCR 6102; Feb. 27, 1996, D.C. Law 11-90, § 5(a), 42 DCR 7155; Mar. 27, 2003, D.C. Law 14-255, § 2, 50 DCR 236; Mar. 12, 2011, D.C. Law 18-317, § 2(c), 57 DCR 12418.)

Section references. — This section is referenced in § 31-301 and § 31-307.

Prior Codifications. — 1981 Ed., § 35-3203.

Effect of amendments. — D.C. Law 14-255 rewrote par. (6) which had read:

“(6) Notes to financial statements, including notes required by the appropriate NAIC annual statement instructions and any other notes required by generally accepted accounting principles. The notes shall also include:

“(A) A reconciliation of differences, if any,

between the audited statements to be filed with the Mayor and the NAIC annual statement filed pursuant to the insurance laws of the District of Columbia; and

“(B) A summary of ownership and relationships of the insurer and all affiliated companies; and”

D.C. Law 18-317, in the lead-in text, substituted “jurisdiction where it is domiciled” for “Mayor”; and rewrote par. (6), which formerly read:

“(6) Notes to the financial statements, includ-

ing notes required by the appropriate NAIC's annual statement instructions, shall include a reconciliation of differences, if any, between the audited financial report and the annual financial statement filed on March 1st with the Mayor, with a written description of the nature of the differences; and"

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 5(a) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 6(a) of the Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 5(a) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 11-90. — Law 11-90, the "Insurance Omnibus Amendment

Act of 1995," was introduced in Council and assigned Bill No. 11-182, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-173 and transmitted to both Houses of Congress for its review. D.C. Law 11-90 became effective on February 27, 1996.

Legislative history of Law 14-255. — Law 14-255, the "Annual Audited Financial Reports Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 7, 2002, and December 3, 2002, respectively. Signed by the Mayor on December 23, 2002, it was assigned Act No. 14-552 and transmitted to both Houses of Congress for its review. D.C. Law 14-255 became effective on March 27, 2003.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-304. Designation of independent certified public accountant.

(a) Each insurer required by this chapter to file an annual audited financial report, within 60 days after becoming subject to the requirement, shall register in writing with the Mayor the name and address of the independent certified public accountant or accounting firm retained to conduct the required annual audit. Insurers not retaining an independent certified public accountant on October 21, 1993, shall register the name and address of their retained certified public accountant not less than 6 months before the date when the first audited financial report is to be filed.

(b) The insurer shall obtain a letter from the accountant, and file a copy with the Mayor, stating that the accountant is aware of the provisions of the insurance laws and rules of the District of Columbia that relate to accounting and financial matters, and affirming that he or she will express his or her opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the jurisdiction where it is domiciled, specifying any exceptions he or she believes appropriate.

(c) If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer shall, within 5 business days, notify the Mayor of this event. The insurer shall, within 10 business days of the above notification, also furnish the Mayor with a separate letter stating whether in the 24 months preceding the event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of the former accountant, would have caused him or her to make reference to the

subject matter of the disagreement in connection with his or her opinion. The disagreements required to be reported in response to this subsection include both those resolved to the former accountant's satisfaction and those not resolved to the former accountant's satisfaction. Disagreements contemplated by this section are those that occur at the decision-making level, that is between personnel of the insurer responsible for presentation of its financial statements and personnel of the accounting firm responsible for rendering its report. The insurer shall also request in writing that the former accountant furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter, and, if not, stating the reasons that he does not agree. The insurer shall furnish the responsive letter from the former accountant to the Mayor together with its own.

(Oct. 21, 1993, D.C. Law 10-48, § 5, 40 DCR 6102; Mar. 12, 2011, D.C. Law 18-317, § 2(d), 57 DCR 12418.)

Section references. — This section is referenced in § 31-313.

Prior Codifications. — 1981 Ed., § 35-3204.

Effect of amendments. — D.C. Law 18-317, in subsec. (b), substituted "by the jurisdiction where it is domiciled" for "by the Mayor".

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(d) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(d) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory notes following § 31-301.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-305. Qualifications of independent certified public accountant.

(a) The Mayor shall not recognize a person or firm as a qualified independent certified public accountant if the person or firm:

(1)(A) Is not in good standing with the American Institute of Certified Public Accountants in all jurisdictions in which the accountant is licensed to practice; or

(B) For a Canadian or British company, is not a chartered accountant; or

(2) Has either directly or indirectly entered into an agreement of indemnity or release from liability with respect to the audit of the insurer.

(b) Except as otherwise provided herein, an independent certified public accountant shall be recognized as qualified as long as he or she conforms to the standards of his or her profession, as contained in the Code of Professional Ethics of the American Institute of Certified Public Accountants, Chapter 15 [repealed] of Title 3, and rules promulgated by the District of Columbia Board of Accountancy.

(b-1) A qualified independent certified public accountant may enter into an agreement with an insurer to have disputes relating to an audit resolved by mediation or arbitration; provided, that in the event of a delinquency proceeding commenced against the insurer under Chapter 13 of this title [§ 31-1301

et seq.], the mediation or arbitration provision shall operate at the option of the statutory successor.

(c)(1) The lead or coordinating audit partner having primary responsibility for the audit shall not act in that capacity for more than 5 consecutive years. A lead or coordinating auditor shall be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of 5 consecutive years. An insurer may make application to the Mayor for relief from the above rotation requirement on the basis of unusual circumstances. Any application shall be made at least 30 days before the end of the calendar year. The Mayor may consider the following factors in determining if the relief should be granted:

(A) The number of partners, the expertise of the partners, or the number of insurance clients in the currently registered firm;

(B) The premium volume of the insurer; or

(C) The number of jurisdictions in which the insurer transacts business.

(2) The insurer shall file, with its annual statement filing, the approval for relief from subsection (c)(1) of this section with the jurisdictions in which it holds a license or does business and the NAIC. If a nondomestic jurisdiction accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(d) The Mayor shall not recognize as a qualified independent certified public accountant, nor accept any annual audited financial report prepared, in whole or in part, by any natural person who:

(1) Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, approved October 15, 1970 (84 Stat. 941; 18 U.S.C. § 1961 et seq.), or any dishonest conduct or practices under federal or state law;

(2) Has been found to have violated the insurance laws of the District of Columbia with respect to any previous reports submitted under this chapter; or

(3) Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under this chapter.

(e) The Mayor, as provided in §§ 31-2502.03 and 31-4305, may hold a hearing to determine whether an independent public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his or her opinion on the financial statements in the annual audited financial report made pursuant to this chapter and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this chapter.

(f)(1) The Mayor shall not recognize as a qualified independent certified public accountant, or accept an annual audited financial report, prepared in whole or in part by a independent certified public accountant, who provides to an insurer, contemporaneously with the audit, the following non-audit services:

(A) Bookkeeping or other services related to the accounting records or financial statements of the insurer;

(B) Financial information systems design and implementation;

(C) Appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

(D)(i) Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements.

(ii) The accountant may assist an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification of an insurer's reserves if the following conditions have been met:

(I) The accountant or the accountant's actuary has not performed any management functions or made any management decisions;

(II) The insurer has competent personnel or engages a third-party actuary to estimate the reserves for which management takes responsibility; and

(III) The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves;

(E) Internal audit outsourcing services;

(F) Management functions or human resources;

(G) Broker or dealer, investment adviser, or investment banking services;

(H) Legal services or expert services unrelated to the audit; or

(I) Any other services that the Mayor determines, by rule, are impermissible.

(2) The principles of independence with respect to services provided by the qualified independent certified public accountant are predicated on 3 basic principles: the accountant cannot function in the role of management; the accountant cannot audit its own work; and the accountant cannot serve in an advocacy role for the insurer. A violation of one or more of these principles shall impair the accountant's independence.

(g) An insurer having direct written and assumed premiums of less than \$100 million in any calendar year may request an exemption from subsection (f)(1) of this section. The insurer shall file with the Mayor a written statement explaining why the insurer should be exempt. If the Mayor finds, upon review of the statement, that compliance with subsection (f)(1) of this section would constitute a financial or organizational hardship on the insurer, an exemption may be granted.

(h) A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in or do not conflict with subsection (f) of this section, if the audit committee provides advance approval in accordance with subsection (i) of this section.

(i) All auditing services and non-audit services provided to an insurer by a qualified independent certified public accountant shall be preapproved by the

audit committee. The preapproval requirement shall be waived with respect to non-audit services if:

(1) The insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity; or

(2)(A) The aggregate amount of all such non-audit services provided to the insurer constitutes no more than 5% of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided;

(B) The services were not recognized by the insurer at the time of the engagement to be non-audit services; and

(C) The provision of services is promptly brought to the attention of the audit committee and approved prior to the completion of the audit by the audit committee or by one or more members of the audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

(j) The audit committee may delegate to one or more designated members of the audit committee the authority to grant the preapproval required by subsection (i) of this section. Any decision by a member or members to whom authority has been delegated to preapprove certain audit and non-audit services shall be formally presented to the full audit committee at its next regularly scheduled meeting.

(k)(1) The Mayor shall not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer was employed by the independent certified public accountant and participated in the audit of the insurer during the one-year period preceding the date the most current statutory opinion is due. This paragraph shall apply only to partners and senior managers involved in the audit. An insurer may make application to the Mayor for relief from the requirement of this paragraph on the basis of good cause.

(2) The insurer shall file, with its annual statement filing, any approval for relief obtained pursuant to paragraph (1) of this subsection with the jurisdictions in which it holds a license or does business and with the NAIC. If a nondomestic jurisdiction accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(Oct. 21, 1993, D.C. Law 10-48, § 6, 40 DCR 6102; Feb. 27, 1996, D.C. Law 11-90, §§ 5(b), 5(c), 42 DCR 7155; Mar. 12, 2011, D.C. Law 18-317, § 2(e), 57 DCR 12418; Sept. 26, 2012, D.C. Law 19-171, § 84, 59 DCR 6190.)

Section references. — This section is referenced in § 31-310 and § 31-312.

Prior Codifications. — 1981 Ed., § 35-3205.

Effect of amendments. — D.C. Law 18-317 rewrote subsecs. (a) and (c); in subsec. (e), substituted “an independent public accountant” for “a certified public accountant”; and added subsecs. (f) to (k).

The 2012 amendment by D.C. Law 19-171 deleted “that” preceding “is not” in (a)(1)(B).

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 5(b), (c) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 6(b) and (c) of the

Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 5(b) and (c) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

For temporary (90 day) amendment of section, see § 2(e) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) addition of section, see § 3 of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) addition of section, see § 3 of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

For temporary (90 day) amendment of sec-

tion, see § 2(e) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

Legislative history of Law 19-171. — Law 19-171, the “Technical Amendments Act of 2012,” was introduced in Council and assigned Bill No. 19-397. The Bill was adopted on first and second readings on Mar. 20, 2012, and Apr. 17, 2012, respectively. Signed by the Mayor on May 23, 2012, it was assigned Act No. 19-376 and transmitted to Congress for its review. D.C. Law 19-171 became effective on September 26, 2012.

Editor’s notes. — Section 3 of D.C. Law 18-317 provided: “Sec. 3. Applicability. Section 2(e)(3) shall apply to audits of the year beginning January 1, 2010, and thereafter.”

§ 31-306. Consolidated or combined audits.

An insurer may make written application to the Mayor for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance companies which utilizes a pooling or 100% reinsurance agreement that affects the solvency and integrity of the insurer’s reserves and the insurer cedes all of its direct and assumed business to the pool. In these cases, a column consolidating or combining worksheet shall be filed with the report, as follows:

(1) Amounts shown on the consolidated or combined audited financial report shall be shown on the worksheet.

(2) Amounts for each insurer subject to this section shall be stated separately.

(3) Noninsurance operations may be shown on the worksheet on a combined or individual basis.

(4) Explanations of consolidating and eliminating entries shall be included.

(5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statements of the insurers.

(Oct. 21, 1993, D.C. Law 10-48, § 7, 40 DCR 6102.)

Prior Codifications. — 1981 Ed., § 35-3206.

Legislative history of Law 10-48. — For

legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

§ 31-307. Scope of audit and report of independent certified public accountant.

Financial statements furnished pursuant to § 31-303 shall be examined by

an independent certified public accountant. In accordance with AU section 319 of the Professional Standards of the American Institute of Certified Public Accountants, Consideration of Internal Control in a Financial Statement Audit, the independent certified public accountant shall obtain a sufficient understanding of the insurer's internal controls to ensure that the audit plan is effective. To the extent required by AU section 319, for those insurers required to file a management's report of internal control over financial reporting pursuant to § 31-311.03, the independent certified public accountant shall consider the most recently available management reports in planning and performing the audit of the statutory financial statements. The audit of the insurer's financial statements shall be conducted in accordance with generally accepted auditing standards. Consideration shall also be given to such other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the NAIC as the independent certified public accountant deems necessary.

(Oct. 21, 1993, D.C. Law 10-48, § 8, 40 DCR 6102; Feb. 27, 1996, D.C. Law 11-90, § 5(d), 42 DCR 7155; Mar. 12, 2011, D.C. Law 18-317, § 2(f), 57 DCR 12418.)

Prior Codifications. — 1981 Ed., § 35-3207.

Effect of amendments. — D.C. Law 18-317 substituted "audit" for "examination"; added the second and third sentences; and substituted "consideration shall" for "consideration should".

Temporary Amendments of section. — For temporary (225 day) amendment of section, see § 5(d) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 6(d) of the Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 5(d) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

For temporary (90 day) amendment of section, see § 2(f) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(f) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 11-90. — For legislative history of D.C. Law 11-90, see Historical and Statutory Notes following § 31-303.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-308. Notification of adverse financial condition.

(a)(1) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within 5 business days to the board of directors or its audit committee any determination by the independent certified public accountant that, as of the balance sheet date currently under audit, the insurer:

(A) Has materially misstated its financial condition as reported to the Mayor;

(B) Does not meet the minimum capital and surplus requirement pursuant to § 31-2502.13 and § 31-4408; or

(C) Does not meet the minimum net worth requirements of § 31-3412.

(2) An insurer who has received a report pursuant to this subsection shall

forward a copy of the report to the Mayor within 5 business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence of the report being furnished to the Mayor. If the independent certified public accountant fails to receive the evidence within the required 5-business-day period, the independent certified public accountant shall furnish to the Mayor a copy of its report within the next 5 business days.

(b) No independent certified public accountant shall be liable in any manner to any person for any statement made in connection with subsection (a) of this section if the statement is made in good faith in compliance with subsection (a) of this section.

(c) If the accountant, subsequent to the date of the audited financial report filed pursuant to this chapter, becomes aware of facts which might have affected his report, the accountant shall take action prescribed in Volume 1, Section AU 561 of the Professional Standards of the American Institute of Certified Public Accountants.

(Oct. 21, 1993, D.C. Law 10-48, § 9, 40 DCR 6102; Feb. 27, 1996, D.C. Law 11-90, § 5(e), 42 DCR 7155; Mar. 12, 2011, D.C. Law 18-317, § 2(g), 57 DCR 12418.)

Section references. — This section is referenced in § 31-314.

Prior Codifications. — 1981 Ed., § 35-3208.

Effect of amendments. — D.C. Law 18-317 rewrote subsec. (a); and, in subsec. (b), substituted "independent certified public" for "independent public". Prior to amendment, subsec. (a) read as follows: "(a) The insurer required to furnish the annual audited financial report shall require the independent certified public accountant to report, in writing, within 5 business days to the board of directors or its audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Mayor as of the balance sheet date currently under examination, or that the insurer does not meet the minimum capital and surplus requirement pursuant to §§ 31-2502.13 and 31-4408, as of that date. An insurer who has received a report pursuant to this subsection shall forward a copy of the report to the Mayor within 5 business days of receipt of the report and shall provide the independent certified public accountant making the report with evidence of

the report being furnished to the Mayor. If the independent certified public accountant fails to receive the evidence within the required 5-business-day period, the independent certified public accountant shall furnish to the Mayor a copy of its report within the next 5 business days."

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 5(e) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 6(e) of the Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 5(e) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 11-90. — For legislative history of D.C. Law 11-90, see Historical and Statutory Notes following § 31-303.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-309. Communication of internal control related matters noted in audit.

(a) In addition to the annual audited financial report, an insurer shall furnish the Mayor with a written communication regarding any unremediated

material weaknesses in its internal controls over financial reporting noted during the audit. If no unremediated material weaknesses were noted during the audit, the insurer shall submit a written communication stating this fact to the Mayor. The communication shall be prepared by the independent certified public accountant within 60 days after the filing of the annual audited financial report and shall contain a description of any unremediated material weakness, as of December 31 immediately preceding, in the insurer's internal control over financial reporting noted by the accountant during the course of their audit of the financial statements.

(b) The insurer shall provide a description of the remedial actions taken or those being proposed to correct unremediated material weaknesses if the actions are not described in the independent certified public accountant's communication to the insurer.

(Oct. 21, 1993, D.C. Law 10-48, § 10, 40 DCR 6102; Mar. 12, 2011, D.C. Law 18-317, § 2(h), 57 DCR 12418.)

Section references. — This section is referenced in § 31-311.03 and § 31-314.

Prior Codifications. — 1981 Ed., § 35-3209.

Effect of amendments. — D.C. Law 18-317 rewrote the section, which formerly read:

"In addition to the annual audited financial statements, each insurer shall furnish the Mayor with a written report prepared by the accountant describing significant deficiencies in the insurer's internal control structure noted by the accountant during the audit. SAS No. 60, Communication of Internal Control Structure Matters Noted in an Audit (AU section 325 of the Professional Standards of the American Institute of Certified Public Accountants) requires an accountant to communicate significant deficiencies, known as reportable conditions, noted during a financial statement audit to the appropriate parties within an entity. No report shall be issued if the accountant does not identify significant deficiencies. If significant deficiencies are noted, the written report shall

be filed annually by the insurer with the Mayor within 60 days after the filing of the annual audited financial statements. The insurer is required to provide a description of remedial actions taken or proposed to correct significant deficiencies, if the actions are not described in the accountant's report."

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(h) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(h) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-310. Accountant's letter of qualifications.

The accountant shall furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating that:

(1) The accountant is independent with respect to the insurer and conforms to the standards of his or her profession as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and the rules of the District of Columbia Board of Accountancy.

(2) The background and experience of the accountant in general is listed, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing

within this chapter shall be construed as prohibiting the accountant from utilizing the staff he or she deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards.

(3) The accountant understands the annual audited financial report and his or her opinion thereon will be filed in compliance with this chapter and that the Mayor will be relying on this information in the monitoring and regulation of the financial position of insurers.

(4) The accountant consents to the requirements of § 31-311 and that the accountant consents and agrees to make available for review by the Mayor, his or her designee or his or her appointed agent, the workpapers, as defined in § 31-311.

(5) The accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

(6) The accountant is in compliance with the requirements of § 31-305.

(Oct. 21, 1993, D.C. Law 10-48, § 11, 40 DCR 6102; Feb. 27, 1996, D.C. Law 11-90, § 5(f), 42 DCR 7155.)

Section references. — This section is referenced in § 31-314.

Prior Codifications. — 1981 Ed., § 35-3210.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 5(f) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 6(f) of the Insurance Omnibus Emergency Amendment Act of

1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 5(f) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 11-90. — For legislative history of D.C. Law 11-90, see Historical and Statutory Notes following § 31-303.

§ 31-311. Definition, availability, and maintenance of independent certified public accountant workpapers.

(a) For purposes of this section, the term “workpapers” are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to his or her audit of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents, and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his or her audit of the financial statements of an insurer and which support his or her opinion thereof.

(b) Every insurer required to file an audited financial report pursuant to this chapter shall require the accountant to make available for review by the Mayor’s examiners all workpapers prepared in the conduct of his or her audit and any communications related to the audit between the accountant and the insurer, at the offices of the insurer, or at any other reasonable place

designated by the Mayor. The insurer shall require that the accountant retain the audit workpapers and communications until the Mayor has filed a report on examination covering the period of the audit but no longer than 7 years from the date of the audit report.

(c) The Mayor may make and retain photocopies of pertinent audit workpapers. The review by the Mayor's examiners shall be considered investigations and all working papers and communications obtained during the course of the investigations shall be afforded the same confidentiality as other examination workpapers generated by the Mayor.

(Oct. 21, 1993, D.C. Law 10-48, § 12, 40 DCR 6102; Mar. 12, 2011, D.C. Law 18-317, § 2(i), 57 DCR 12418.)

Section references. — This section is referenced in § 31-310.

Prior Codifications. — 1981 Ed., § 35-3211.

Effect of amendments. — D.C. Law 18-317, in the section heading, substituted "independent certified" for "certified"; in subsec. (a), substituted "For the purposes of this section, the term" for "For the purposes of this chapter, the term"; and, in subsec. (a) and the second sentence of subsec. (b), substituted "audit" for "examination".

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(i) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) addition of sections, see § 2(j) of Annual Financing Reporting Mod-

ernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(i) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

For temporary (90 day) addition of sections, see § 2(j) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-311.01. Requirements for audit committees.

(a) The audit committee shall be directly responsible for the appointment, compensation, and oversight of any accountant, including the resolution of disagreements between management and the accountant regarding annual financial reporting required by this chapter. Each accountant shall report directly to the audit committee.

(b) Each member of the audit committee shall be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to subsection (e) of this section.

(c) To be considered independent for purposes of this section, a member of the audit committee shall not, except in his or her capacity as a member of the audit committee, the board of directors, or any other board committee, accept any consulting, advisory, or other compensatory fee from the entity, or be an affiliated person of the entity or any subsidiary thereof; provided, that if board participation by otherwise non-independent members is legally required, such members may participate on the audit committee and be designated as independent for audit committee purposes unless they are an officer or employee of the insurer or one of its affiliates.

(d) If a member of the audit committee ceases to be independent for reasons

outside the member's reasonable control, the member, upon notice to the Mayor, may remain an audit committee member until the earlier of the next annual meeting or one year from the occurrence of the event causing the member to be no longer independent.

(e) Prior to exercising the election of designating an audit committee pursuant to this chapter, the ultimate controlling person shall provide written notice to the Mayor. The written notice shall be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. An insurer may change its election by providing written notice to the Mayor with a description of the basis for the change. The election shall remain in effect until rescinded.

(f)(1) The audit committee shall require the accountant performing an audit pursuant to this chapter to report timely to the audit committee, in accordance with the requirements of SAS 61, Communication with Audit Committees, or its successor, the following:

(A) All significant accounting policies and material permitted practices;

(B) All material alternative treatments of financial information within statutory accounting principles that have been discussed with management of the insurer, the ramifications of the use of the alternative disclosures, and the treatment preferred by the accountant; and

(C) Any other material written communication between the accountant and the management of the insurer, including any management letter or schedule of unadjusted differences.

(2) If an insurer is a member of an insurance holding company system, the reports required by paragraph (1) of this subsection may be provided to the audit committee on an aggregate basis for the insurers in the holding company system; provided, that any substantial differences among insurers in the system are identified to the audit committee.

(g) The following criteria shall apply for determining the required proportion of independent audit committee members:

(1) If, during the prior calendar year, direct written and assumed premiums do not exceed \$300 million, there shall be no minimum requirement.

(2) If, during the prior calendar year, direct written and assumed premiums exceed \$300 million, but do not exceed \$500 million, 50% or more of members shall be independent.

(3) If, during the prior calendar year, direct written and assumed premiums exceed \$500 million, 75% or more of its members shall be independent.

(h) An insurer with direct written and assumed premiums of less than \$500 million, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, may make application to the Mayor for an exemption from this section based on hardship. An insurer that has been granted an exemption pursuant to this section shall file such approval, together with its annual statement filing, with the states in which it holds a license or does business and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer shall file the approval in an electronic format acceptable to the NAIC.

(i) Prior calendar year direct written and assumed premiums shall be the

combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

(j) This section shall not apply to:

(1) Foreign or alien insurers licensed in the District; or

(2) An insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity.

(Oct. 21, 1993, D.C. Law 10-48, § 12a, as added Mar. 12, 2011, D.C. Law 18-317, § 2(j), 57 DCR 12418.)

Section references. — This section is referenced in § 31-301, § 31-302, and § 31-312. history of Law 18-317, see notes under § 31-301.

Legislative history of Law 18-317. — For

§ 31-311.02. Conduct of insurer in connection with the preparation of required reports and documents.

(a) A director or officer of an insurer shall not, in connection with any audit, review, or communication required under this chapter, directly or indirectly:

(1) Make, or cause to be made, a materially false or misleading statements [sic] to an accountant; or

(2) Omit to state, or cause another person to omit to state, any material fact necessary to make a statement made to an accountant, in light of the circumstances under which they were made, not misleading.

(b)(1) A director or officer of an insurer, or any other person acting under the direction thereof, shall not, directly or indirectly, take any action to coerce, manipulate, mislead, or fraudulently influence any accountant engaged in the performance of an audit pursuant to this chapter if the person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading.

(2) For the purposes of this subsection, actions that could result in rendering the insurer's financial statements materially misleading include actions causing the accountant to:

(A) Issue or reissue a report on an insurer's financial statements that is not warranted under the circumstances due to material violations of statutory accounting principles, generally accepted auditing standards, or other professional or regulatory standards;

(B) Not perform audit, review, or other procedures required by generally accepted auditing standards or other professional standards;

(C) Not withdraw an issued report; or

(D) Not communicate matters to an insurer's audit committee.

(Oct. 21, 1993, D.C. Law 10-48, § 12b, as added Mar. 12, 2011, D.C. Law 18-317, § 2(j), 57 DCR 12418.)

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-311.03. Management's report of internal control over financial reporting.

(a) An insurer required to file an audited financial report pursuant to this chapter that has annual direct written and assumed premiums of at least \$500 million, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, shall prepare a management's report of the insurer's or group of insurers' internal control over financial reporting. The report shall be filed with the Mayor along with the communication of internal control related matters noted in an audit described in § 31-309. A management's report of internal control over financial reporting shall be made as of December 31 immediately preceding the date of the report.

(b) Notwithstanding subsection (a) of this section, the Mayor may require an insurer to file a management's report of internal control over financial reporting if the insurer:

(1) Is in any RBC level event as provided in Chapter 20 of this title [§ 31-2001 et seq.], and Chapter 38B of this title [§ 31-3851.01 et seq.]; or

(2) Meets one or more of the standards of an insurer deemed to be in hazardous financial condition as provided in Chapter 21 of this title [§ 31-2101 et seq.].

(c)(1) An insurer or a group of insurers that is (A) directly subject to Section 404; (B) part of a holding company system whose parent is directly subject to Section 404; (C) not directly subject to Section 404, but is a SOX Compliant Entity; or (D) a member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity, may file its, or its parent's, Section 404 Report and an addendum that complies with the requirements of this section; provided, that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements were included in the scope of the Section 404 Report.

(2) An addendum filed with a Section 404 Report shall be an affirmative statement by management that no material processes were excluded in the scope of the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements that were not included in the scope of the Section 404 Report, the insurer or group of insurers shall file:

(A) A report pursuant to this section; or

(B) A Section 404 Report and a report pursuant to this section that addresses those internal controls not covered by the Section 404 Report.

(d) A management's report of internal control over financial reporting shall include:

(1) A statement that management is responsible for establishing and maintaining adequate internal control over financial reporting;

(2) A statement that management has established internal control over financial reporting and an assertion as to whether, to the best of management's knowledge and belief, after diligent inquiry, the internal control over financial

reporting is effective to provide reasonable assurance regarding the reliability of financial statements prepared in accordance with statutory accounting principles;

(3) A statement describing the framework or processes by which management evaluates the effectiveness of its internal control over financial reporting;

(4) A statement describing the scope of work that is included and whether any internal controls were excluded;

(5)(A) Disclosure of any unremediated material weaknesses in the internal control over financial reporting identified by management as of December 31 immediately preceding the date of the report.

(B) Management shall not be permitted to conclude that the internal control over financial reporting is effective if there is one or more unremediated material weaknesses in its internal control over financial reporting;

(6) A statement regarding the inherent limitations of internal control systems; and

(7) Signatures of the chief executive officer and the chief financial officer, or the equivalents thereof.

(e) Management shall document and make available during the course of any financial condition examination the basis upon which its assertions offered pursuant to this section are made. Management may base its assertions, in part, on its review, monitoring, and testing of internal controls undertaken in the normal course of its activities.

(f) Management shall have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, to make its assertions in a cost effective manner and, as such, may include assembly of or reference to existing documentation.

(g) A management's report on internal control over financial reporting filed with the Mayor pursuant to this section, including any supporting documentation submitted in support thereof, shall be kept confidential.

(Oct. 21, 1993, D.C. Law 10-48, § 12c, as added Mar. 12, 2011, D.C. Law 18-317, § 2(j), 57 DCR 12418.)

Section references. — This section is referenced in § 31-307 and § 31-312. history of Law 18-317, see notes under § 31-301.

Legislative history of Law 18-317. — For

§ 31-312. Exemptions and effective dates.

(a) Upon written application of any insurer, the Mayor may grant an exemption from compliance with this chapter if the Mayor finds, upon review of the application, that compliance with this chapter would constitute a financial or organizational hardship upon the insurer and the public interest would not be unduly compromised by the exemption. An exemption may be granted at any time, and from time to time for a specified period or periods. Within 10 days from a denial of an insurer's written request for an exemption from this chapter, the insurer may request in writing a hearing on its application for an exemption. The hearing shall be held in accordance with

those rules pertaining to administrative hearing procedures as the Mayor may prescribe.

(b) Domestic insurers retaining a certified public accountant on October 21, 1993 who qualify as independent shall comply with this chapter for the year ending December 31, 1993, and each year thereafter, unless the Mayor permits otherwise.

(c) Domestic insurers not retaining a certified public accountant, who qualifies as independent, on October 21, 1993, shall meet the following schedule for compliance unless the Mayor permits otherwise:

(1) As of December 31, 2009, file with the Mayor:

(A) Report of independent certified public accountant;

(B) Audited balance sheet; and

(C) Notes to audited balance sheet.

(2) For the year ending December 31, 1993, and each year thereafter, these insurers shall file with the Mayor all reports and communications required by this chapter.

(d) Foreign insurers shall comply with this chapter for the year ending December 31, 1993, and each year thereafter, unless the Mayor permits otherwise.

(e) Section 31-311.01 shall apply as of January 1, 2010. An insurer or group of insurers that was not required to have independent audit committee members or only a majority of independent audit committee members because their total written and assumed premiums were below the stated threshold levels provided in § 31-311.01(g) for a given year shall have one calendar year to comply with the independence requirements following the year the threshold is exceeded. An insurer that becomes subject to the independence requirements of this chapter as a result of a business combination shall have one calendar year following the date of acquisition or combination to comply with the independence requirements.

(f) Section 31-305(g) through (k) and 31-311.03 shall apply as of the reporting period ending December 31, 2010, and each year thereafter. An insurer or group of insurers that is not required to file a report pursuant to § 31-311.03, but subsequently becomes subject to the reporting requirements, shall have 2 calendar years following the year the threshold is exceeded to file a report. An insurer acquired in a business combination shall have 2 calendar years following the date of acquisition or combination to comply with the reporting requirements.

(Oct. 21, 1993, D.C. Law 10-48, § 13, 40 DCR 6102; Mar. 12, 2011, D.C. Law 18-317, § 2(k), 57 DCR 12418.)

Prior Codifications. — 1981 Ed., § 35-3212.

Effect of amendments. — D.C. Law 18-317, in subsec. (c)(1), substituted “December 31, 2009” for “December 31, 1993”; in subsec. (c)(2), substituted “reports and communications required” for “reports required”; and added subsecs. (e) and (f).

Emergency legislation. — For temporary

(90 day) amendment of section, see § 2(k) of Annual Financing Reporting Modernization Emergency Amendment Act of 2010 (D.C. Act 18-665, December 28, 2010, 58 DCR 80).

For temporary (90 day) amendment of section, see § 2(k) of Annual Financial Reporting Modernization Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-30, March 15, 2011, 58 DCR 2591).

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 18-317. — For history of Law 18-317, see notes under § 31-301.

§ 31-313. Canadian and British companies.

(a) In the case of Canadian and British insurers, the annual audited financial report shall be defined as the annual statement of total business on the form filed by these companies with their domiciliary supervision authority duly audited by an independent chartered accountant.

(b) For Canadian and British insurers, the letter required in § 31-304 shall state that the accountant is aware of the requirements relating to the annual audited statement filed with the Mayor pursuant to § 31-302 and shall affirm that the opinion expressed is in conformity with these requirements.

(Oct. 21, 1993, D.C. Law 10-48, § 14, 40 DCR 6102; May 16, 1995, D.C. Law 10-255, § 31, 41 DCR 5193.)

Prior Codifications. — 1981 Ed., § 35-3213.

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

Legislative history of Law 10-255. — Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned

Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

§ 31-314. Applicability.

(a) Every insurer, as defined in § 31-301, shall be subject to this chapter. Insurers having direct premiums written in the District of Columbia of less than \$1,000,000 in any calendar year and having less than 1,000 policyholders or certificateholders of directly written policies nationwide at the end of any calendar year shall be exempt from this chapter for that year, unless the Mayor makes a specific finding that compliance is necessary for the Mayor to carry out statutory responsibilities, except that insurers having assumed premiums pursuant to contracts or treaties of reinsurance of \$1,000,000 or more will not be so exempt.

(b) Foreign or alien insurers filing audited financial reports in another state pursuant to the other state's requirement of audited financial reports which has been found by the Mayor to be substantially similar to the requirements of this chapter are exempt from this chapter if:

(1) A copy of the audited financial report, report on significant deficiencies in internal controls, and the accountant's letter of qualifications which are filed with the other states are filed with the Mayor in accordance with the filing dates specified in §§ 31-302, 31-309, and 31-310, respectively. Canadian insurers may submit accounts' reports as filed with the Canadian Dominion Department of Insurance.

(2) A copy of any notification of adverse financial condition report filed with the other states is filed with the Mayor within the time specified in § 31-308.

(c) This chapter shall not prohibit, preclude, or in any way limit the Mayor from ordering, conducting, or performing examinations of insurers under the rules and the practices and procedures of the District of Columbia.

(Oct. 21, 1993, D.C. Law 10-48, § 15, 40 DCR 6102.)

Section references. — This section is referenced in § 31-3931.13.

Prior Codifications. — 1981 Ed., § 35-3214.

Legislative history of Law 10-48. — For legislative history of D.C. Law 10-48, see Historical and Statutory Notes following § 31-301.

CHAPTER 4. BUSINESS TRANSACTED WITH PRODUCER CONTROLLED INSURER.

Sec.

31-401. Definitions.

31-402. Applicability.

31-403. Applicability of minimum standards.

31-404. Required contract provisions.

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§ 31-401. Definitions.

For the purposes of this chapter, the term:

(1) "Accredited state" means a jurisdiction in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners ("NAIC").

(2) "Captive insurers" means insurance companies owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies, or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members and their affiliates.

(2A) "Commissioner" means the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking].

(3) "Control" or "controlled" has the meaning ascribed in § 31-701(2).

(4) "Controlled insurer" means a licensed insurer which is controlled, directly or indirectly, by a producer.

(5) "Controlling producer" means a producer who, directly or indirectly, controls an insurer.

(6) "Holding company system" has the meaning ascribed in § 31-701(4).

(7) "Licensed insurer" or "insurer" means any person, firm, association, or corporation duly licensed to transact a property/casualty insurance business in the District of Columbia. The following, inter alia, are not licensed insurers for the purposes of this chapter:

(A) All risk retention groups as defined in the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. § 9601 et seq.), the Product Liability Risk Retention Act of 1981 (15 U.S.C. § 3901 et seq.), and § 31-4101;

(B) All residual market pools and joint underwriting authorities or associations; and

(C) All captive insurers.

(8) "Producer" means an insurance broker or brokers or any other person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, such a person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association, or corporation.

(9) Repealed.

(Oct. 21, 1993, D.C. Law 10-52, § 2, 40 DCR 6129; May 21, 1997, D.C. Law 11-268, § 10(hh), 44 DCR 1730.)

Prior Codifications. — 1981 Ed., § 35-4001.

Legislative history of Law 10-52. — D.C. Law 10-52, the “Business Transacted with Producer Controlled Insurer Act of 1993,” was introduced in Council and assigned Bill No. 10-135, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 4, 1993, it was assigned Act No. 10-97 and transmitted to both Houses of Congress for its review. D.C. Law 10-52 became effective on October 21, 1993.

Legislative history of Law 11-268. — Law 11-268, the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Commit-

tee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective on May 21, 1997.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 10-52, the Business Transacted with Producer Controlled Insurance Act of 1993, see Mayor’s Order 94-54, March 7, 1994 (41 DCR 1433).

Editor’s notes. — Mayor authorized to issue rules: Section 10 of D.C. Law 10-52 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1 [subchapter I of Chapter 5 of Title 2, 2001 Ed.], issue rules to implement the provisions of this chapter.

§ 31-402. Applicability.

This chapter shall apply to licensed insurers either domiciled in the District of Columbia or domiciled in a state that is not an accredited state having in effect a substantially similar law. All provisions of Chapter 7 of this title, to the extent they are not superseded by this chapter, shall continue to apply to all parties within holding company systems subject to this chapter.

(Oct. 21, 1993, D.C. Law 10-52, § 3, 40 DCR 6129.)

Prior Codifications. — 1981 Ed., § 35-4002.

Legislative history of Law 10-52. — For

legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

§ 31-403. Applicability of minimum standards.

(a) The provisions of §§ 31-404, 31-405, and 31-406 shall apply if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than 5% of the admitted assets of the controlled insurer, as reported in the controlled insurer’s quarterly statement filed as of September 30 of the prior year.

(b) Subsection (a) of this section shall not apply if:

(1) The controlling producer:

(A) Places insurance only with the controlled insurer, or only with the controlled insurer and a member or members of the controlled insurer’s holding company system, or the controlled insurer’s parent, affiliate, or subsidiary, and receives no compensation based upon the amount of premiums written in connection with the insurance; and

(B) Accepts insurance placements only from nonaffiliated subproducers, and not directly from insureds; and

(2) The controlled insurer, except for insurance business written through a residual market facility accepts insurance business only from a controlling

producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

(Oct. 21, 1993, D.C. Law 10-52, § 4, 40 DCR 6129.)

Prior Codifications. — 1981 Ed., § 35-4003. legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

Legislative history of Law 10-52. — For

§ 31-404. Required contract provisions.

A controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between the controlling producer and the controlled insurer specifying the responsibilities of each party, which contract has been approved by the board of directors of the controlled insurer, and contains the following minimum provisions:

(1) The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for termination.

(2) The controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer.

(3) The controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments collected shall be remitted no later than 90 days after the effective date of any policy placed with the controlled insurer under this contract.

(4) All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the Federal Reserve System, in accordance with applicable provisions of insurance law of the District of Columbia. Funds of a controlling producer not required to be licensed in the District of Columbia shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction.

(5) The controlling producer shall maintain separately identifiable records of business written for the controlled insurer.

(6) The contract shall not be assigned in whole or in part by the controlling producer.

(7) The controlled insurer shall provide the controlling producer with its underwriting standards, rules and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer.

(8) The rates and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees shall be

included. The rates of the commissions, charges, and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than controlling producers. For purposes of this paragraph and paragraph (7) of this section, examples of "comparable business" include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business.

(9) If the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then the compensation shall not be determined and paid until at least 5 years after the premiums on liability insurance are earned and at least 1 year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to paragraphs (1) and (6) of this section.

(10) The contract provides a limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer if the limit is reached. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached.

(11) The controlling producer may negotiate, but shall not bind, reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines, including, for both reinsurance assumed and ceded, a list of reinsurers with which automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

(Oct. 21, 1993, D.C. Law 10-52, § 5, 40 DCR 6129; May 16, 1995, D.C. Law 10-255, § 34, 41 DCR 5193.)

Section references. — This section is referenced in § 31-403.

Prior Codifications. — 1981 Ed., § 35-4004.

Legislative history of Law 10-52. — For legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

Legislative history of Law 10-255. — Law 10-255, the "Technical Amendments Act of

1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

§ 31-405. Audit committee.

Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with management, the insurer's independent certified public accountants, and an independent casualty actuary, or other independent loss

reserve specialist acceptable to the Mayor, to review the adequacy of the insurer's loss reserves.

(Oct. 21, 1993, D.C. Law 10-52, § 6, 40 DCR 6129.)

Section references. — This section is referenced in § 31-403.

Prior Codifications. — 1981 Ed., § 35-4005.

Legislative history of Law 10-52. — For legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

§ 31-406. Reporting requirements.

(a) In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the Mayor an opinion of an independent casualty actuary, or any other independent loss reserve specialist acceptable to the Mayor reporting loss reserve for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including that incurred, but not reported, on business placed by the producer.

(b) The controlled insurer shall annually report to the Mayor the amount of commissions paid to the producer, the percentage the amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

(Oct. 21, 1993, D.C. Law 10-52, § 7, 40 DCR 6129; Apr. 26, 1994, D.C. Law 10-103, § 9, 41 DCR 1005.)

Section references. — This section is referenced in § 31-403.

Prior Codifications. — 1981 Ed., § 35-4006.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 9 of the Insurance Omnibus Temporary Amendment Act of 1993 (D.C. Law 10-76, March 17 1994, law notification 41 DCR 1626).

Legislative history of Law 10-52. — For legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

Legislative history of Law 10-103. — Law 10-103, the "Insurance Omnibus Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-394, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 17, 1994, it was assigned Act No. 10-191 and transmitted to both Houses of Congress for its review. D.C. Law 10-103 became effective on April 26, 1994.

§ 31-407. Disclosure.

The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer, except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in his or her records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

(Oct. 21, 1993, D.C. Law 10-52, § 8, 40 DCR 6129.)

Prior Codifications. — 1981 Ed., § 35-4007. legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

Legislative history of Law 10-52. — For

§ 31-408. Penalties.

(a)(1) If the Mayor believes that the controlling producer or any other person has not materially complied with this chapter, or any regulation or order promulgated hereunder, after notice and opportunity to be heard, the Commissioner may order the controlling producer to cease placing business with the controlled insurer; and

(2) If it was found that because of material noncompliance the controlled insurer or any policyholder has suffered any loss or damage, the Mayor may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or for other appropriate relief.

(b) If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to Chapter 13 of this title, and the receiver appointed under that order believes that the controlling producer, or any other person, has not materially complied with this chapter, or any regulation or order promulgated hereunder, and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

(c) Nothing contained in this section shall affect the right of the Mayor to impose any other penalties provided under the insurance laws of the District of Columbia.

(d) Nothing contained in this section shall in any manner alter or affect the rights of policyholders, claimants, creditors, or other third parties.

(Oct. 21, 1993, D.C. Law 10-52, § 9, 40 DCR 6129; May 21, 1997, D.C. Law 11-268, § 10, 44 DCR 1730.)

Prior Codifications. — 1981 Ed., § 35-4008.

Legislative history of Law 10-52. — For legislative history of D.C. Law 10-52, see Historical and Statutory Notes following § 31-401.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-401.

CHAPTER 5. CREDIT FOR REINSURANCE.

Sec.

31-501. Credit allowed a domestic ceding insurer.

31-502. Reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer.

Sec.

31-503. Qualified United States financial institutions.

§ 31-501. Credit allowed a domestic ceding insurer.

(a) Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraph (1), (2), (3), (4), or (5) of this subsection. If meeting the requirements of paragraph (3) or (4) of this subsection, the requirements of paragraph (6) of this subsection must also be met.

(1) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is licensed to transact insurance or reinsurance in the District of Columbia.

(2) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in the District of Columbia. An accredited reinsurer is one which:

(A) Files evidence of its submission to the District of Columbia jurisdiction with the Commissioner;

(B) Submits to the District of Columbia authority to examine its books and records;

(C) Is licensed to transact insurance or reinsurance in at least one state, or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in the District or at least one state; and

(D) Files annually with the Commissioner a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement, and:

(i) Maintains a surplus as regards policyholders in an amount which is not less than \$20,000,000 and whose accreditation has not been denied by the Commissioner within 90 days of its submission; or

(ii) Maintains a surplus as regards policyholders in an amount less than \$20,000,000 and whose accreditation has been approved by the Commissioner.

(3)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in, or, in the case of a United States branch of an alien assuming insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute, and the assuming insurer or United States branch of an alien assuming insurer:

(i) Maintains a surplus as regards policyholders in an amount not less than \$20,000,000;

(ii) Submits to the authority of the District of Columbia to examine its books and records; and

(iii) Complies with the requirements of paragraph (6) of this subsection.

(B) The requirement of subparagraph (A) of this paragraph does not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(4)(A) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution, as defined in § 31-503(b), for the payment of the valid claims of its United States policyholders and ceding insurers, their assignees and successors in interest. The assuming insurer shall report annually to the Commissioner information substantially the same as that required to be reported on the NAIC Annual Statement form by licensed insurers to enable the Commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States, and, in addition, the assuming insurer shall maintain a trustee surplus of not less than \$20,000,000. In the case of a group of underwriters, which includes individuals, the trust shall consist of a trustee account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trustee surplus of which \$100,000,000 shall be held jointly for the benefit of United States ceding insurers of any member of the group. The group shall make available to the Commissioner an annual certification of the solvency of each underwriter by the group's domiciliary regulator and its independent public accountants.

(B) In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subparagraph (A) of this paragraph, has continuously transacted an insurance business outside the United States for at least 3 years immediately prior to making application for accreditation, submits to the District of Columbia authority to examine its books and records and bears the expense of the examination, and has aggregate policyholders' surplus of \$10,000,000,000, the trust shall be in an amount equal to the group's several liabilities attributable to business ceded by United States ceding insurers to any member of the group pursuant to reinsurance contracts issued in the name of the group. The group shall maintain a joint trustee surplus of which \$100,000,000 shall be held jointly and exclusively for the benefit of United States ceding insurers of any member of the group as additional security for any liabilities, and each member of the group shall make available to the Commissioner an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

(C) The trust shall be established in a form approved by the Commissioner of Insurance. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assignees, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the

Commissioner. This trust shall remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.

(D) No later than February 28th of each year the trustees of the trust shall report to the Commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end, and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31st.

(E) Credit shall not be allowed under this paragraph unless the assuming insurer complies with the requirements of paragraph (6) of this subsection.

(5) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (1), (2), (3), or (4) of this subsection but only with respect to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation in that jurisdiction.

(6) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance of the District of Columbia, the credit permitted by paragraphs (3) and (4) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(A) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of such court or of any appellate court in the event of an appeal; and

(B) To comply with the service of process provisions of § 31-202 in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(b) No credit shall be allowed to a domestic ceding insurer if the assuming insurer's accreditation has been revoked by the Commissioner after notice and hearing.

(b-1)(1) No credit shall be allowed under this section, as an admitted asset or deduction from liability, to a domestic ceding insurer for reinsurance, unless the reinsurance agreements include a proper insolvency clause as set forth in paragraph (2) of this subsection.

(2) A proper insolvency clause, in substance, provides that in the event of the insolvency of the ceding insurer, the reinsurance shall be payable under contracts reinsured by the assuming insurer on the basis of reported claims allowed by the Superior Court of the District of Columbia, without diminution because of the insolvency of the ceding insurer. The payments shall be made directly to the ceding insurer or to its domiciliary liquidator, except where:

(A) The contracts or other written agreements specifically provide another payee of the reinsurance in the event of the insolvency of the ceding insurer; or

(B) The assuming insurer, with the consent of the direct insureds, has assumed the policy obligations of the ceding insurer as direct obligations of the

assuming insurer to the payees under such policies and in substitution for the obligations of the ceding insurer to such payees. The reinsurance contracts may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to the assuming insurer of the pendency of a claim against the ceding insurer on the contracts reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, an assuming insurer may investigate the claim and interpose, at its own expense, in the proceeding where the claim is to be adjudicated any defenses which it deems available to the ceding insurer or its liquidator. The expense may be filed as a claim against the insolvent ceding insurer to the extent of a proportionate share of the benefit which may accrue to the ceding insurer solely as a result of the defense undertaken by the assuming insurer. If 2 or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense shall be apportioned in accordance with the terms of the reinsurance agreements as though the expense had been incurred by the ceding insurer.

(c) This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement.

(Oct. 15, 1993, D.C. Law 10-36, § 2, 40 DCR 5812; Mar. 21, 1995, D.C. Law 10-233, § 11, 42 DCR 24; Feb. 27, 1996, D.C. Law 11-90, § 6, 42 DCR 7155; Apr. 9, 1997, D.C. Law 11-255, § 42, 44 DCR 1271; May 21, 1997, D.C. Law 11-268, § 10(cc), 44 DCR 1730; Oct. 21, 2000, D.C. Law 13-185, § 3, 47 DCR 7068.)

Cross references. — Hospital and medical services corporations, applicability of this section, see § 31-3503.

Section references. — This section is referenced in § 31-502.

Prior Codifications. — 1981 Ed., § 35-3301.

Effect of amendments. — D.C. Law 13-185 added subsec. (b)-1).

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 6 of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 7 of the Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 6 of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative history of Law 10-36. — Law 10-36, the “Law on Credit for Reinsurance Act of 1993,” was introduced in Council and assigned Bill No. 10-128, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on July

29, 1993, it was assigned Act No. 10-69 and transmitted to both Houses of Congress for its review. D.C. Law 10-36 became effective on October 15, 1993.

Legislative history of Law 10-233. — Law 10-233, the “Insurers Service of Process Act of 1994,” was introduced in Council and assigned Bill No. 10-666, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-376 and transmitted to both Houses of Congress for its review. D.C. Law 10-233 became effective on March 21, 1995.

Legislative history of Law 11-90. — Law 11-90, the “Insurance Omnibus Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-182, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-173 and transmitted to both Houses of Congress for its review. D.C. Law 11-90 became effective on February 27, 1996.

Legislative history of Law 11-255. — Law 11-255, the “Second Technical Amendments Act

of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Legislative history of Law 11-268. — Law 11-268, the "Department of Insurance and Securities Regulation Establishment Act of 1996," was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective May 21, 1997.

Legislative history of Law 13-185. — Law 13-185, the "Reinsurance Credit and Recovery Act of 2000," was introduced in Council and assigned Bill No. 13-595, which was referred to

the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-401 and transmitted to both Houses of Congress for its review. D.C. Law 13-185 became effective on October 21, 2000.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 10-36, the Law on Credit for Reinsurance Act of 1993, see Mayor's Order 94-54, March 7, 1994 (41 DCR 1433).

Editor's notes. — Application of Law 10-36: Section 7 of D.C. Law 10-36 provided that §§ 35-3301 through 35-3303 and Section 5 of this act shall apply to all cession after the effective date of this act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than 6 months after the effective date of this act.

Mayor authorized to issue rules: Section 5 of D.C. Law 10-36 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1 [subchapter I of Chapter 5 of Title 2, 2001 Ed.], issue rules to implement the provisions of this chapter.

§ 31-502. Reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer.

A reduction from liability for the reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of § 31-501 shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer, and such a reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of:

- (1) Cash;
- (2) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;
- (3) Irrevocable, unconditional letters of credit issued or confirmed by a qualified United States institution no later than December 31st in respect of the year for which filing is being made, and in the possession of the ceding company on or before the filing date of its annual statement. Letters of credit meeting applicable standards of insurer acceptability as of the dates of their issuance or confirmation shall, notwithstanding the issuing or confirming institution's subsequent failure to meet applicable standards of issuers acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever occurs first; or
- (4) Any other investment which the Commissioner concludes is sufficiently secure and liquid to provide adequate security.

(Oct. 15, 1993, D.C. Law 10-36, § 3, 40 DCR 5812; May 21, 1997, D.C. Law 11-268, § 10(cc), 44 DCR 1730.)

Section references. — This section is referenced in § 31-3932.11.

Prior Codifications. — 1981 Ed., § 35-3302.

Legislative history of Law 10-36. — For legislative history of D.C. Law 10-36, see Historical and Statutory Notes following § 31-501.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-501.

Editor's notes. — Application of Law 10-36: See Historical and Statutory Notes following § 31-501.

§ 31-503. Qualified United States financial institutions.

(a) For purposes of this chapter, the term “qualified United States financial institution” means an institution that:

(1) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state;

(2) Is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(3) Has been determined by either the Commissioner or the Securities Valuation Office of the National Association of Insurance Commissioners to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions issuing letters.

(b) For the purposes of this chapter, the term “qualified United States financial institution” means, for purposes of those provisions of this chapter specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

(1) Is organized, or, in the case of a United States branch or agency office of a foreign banking organization, licensed, under the laws of the United States or any state and has been granted authority to operate with fiduciary powers; and

(2) Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

(Oct. 15, 1993, D.C. Law 10-36, § 4, 40 DCR 5812; May 21, 1997, D.C. Law 11-268, § 10(cc), 44 DCR 1730.)

Section references. — This section is referenced in § 31-501.

Prior Codifications. — 1981 Ed., § 35-3303.

Legislative history of Law 10-36. — For legislative history of D.C. Law 10-36, see Historical and Statutory Notes following § 31-501.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-501.

Editor's notes. — Application of Law 10-36: See Historical and Statutory Notes following § 31-501.

CHAPTER 6. DOMESTIC STOCK INSURANCE COMPANIES.

Sec.

31-601. Definition.

31-602. Rules and regulations with respect to proxies, consents, and authorizations; violations; exemptions.

31-603. Statements to be filed by beneficial owners, directors, or officers; sales

Sec.

restrictions; exemptions; equity security defined; rules and regulations; violations; effective date.

31-604. Authority and functions of government entities.

§ 31-601. Definition.

As used in this chapter, unless the context otherwise requires, "domestic stock insurance company" means a stock insurance company incorporated or organized under the laws of the District of Columbia.

(Apr. 18, 1966, 80 Stat. 123, Pub. L. 89-402, § 1.)

Prior Codifications. — 1981 Ed., § 35-211.
1973 Ed., § 35-221.

§ 31-602. Rules and regulations with respect to proxies, consents, and authorizations; violations; exemptions.

(a) The Council of the District of Columbia shall promulgate rules and regulations with respect to the solicitation and voting of proxies, consents, and authorizations of domestic stock insurance companies in conformity, as nearly as may be practicable, with those prescribed by the National Association of Insurance Commissioners. The Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] (hereinafter "Commissioner") shall have power to revoke or suspend the certificate of authority to transact business in the District of Columbia of any such company which has failed or refused to comply with the rules and regulations promulgated by the Council.

(b) The Commissioner shall not revoke nor suspend the certificate of authority of any such company until he has given the company not less than 30 days notice of the proposed revocation or suspension and of the grounds alleged therefor, and has afforded the company an opportunity for a full hearing; provided, that if the Commissioner shall find upon examination that the further transaction of business by the company would be hazardous to the public or to the policyholders or creditors of the company in the District, he may suspend such authority without giving notice as herein required; provided further, that in lieu of revoking or suspending the certificate of authority of any company, after hearing as herein provided, the Commissioner may subject such company to a penalty of not more than \$500 when, in his judgment, he finds that the public interest would be best served by the continued operation of the company. The amount of any such penalty shall be paid by the company through the office of the Commissioner to the Mayor of the District of Columbia. At any hearing provided by this section, the Commissioner shall have authority to administer oaths to witnesses. Anyone testifying falsely after

having been administered such an oath shall be subject to the penalties of perjury.

(c) The provisions of subsections (a) and (b) of this section shall not apply to securities of a domestic stock insurance company if such securities shall be registered, or shall be required to be registered, pursuant to § 12 of the Securities Exchange Act of 1934, as amended (§ 781 of Title 15, United States Code).

(Apr. 18, 1966, 80 Stat. 123, Pub. L. 89-402, § 2; May 21, 1997, D.C. Law 11-268, § 10(f), 44 DCR 1730.)

Prior Codifications. — 1981 Ed., § 35-212. 1973 Ed., § 35-222.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-5201.

Editor's notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 31-5201.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(418) of Reorganization Plan No. 3 of 1967 (see Reor-

ganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 31-603. Statements to be filed by beneficial owners, directors, or officers; sales restrictions; exemptions; equity security defined; rules and regulations; violations; effective date.

(a) Every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the Commissioner on or before the 31st day of December 1965, or within 10 days after he becomes such beneficial owner, director, or officer, a statement, in such form as the Commissioner may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within 10 days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the Commissioner a statement, in such form as the Commissioner may prescribe, indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

(b) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than 6 months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and

be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding 6 months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Council of the District of Columbia by rules and regulations may exempt as not comprehended within the purpose of this section.

(c) It shall be unlawful for any such beneficial owner, director, or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal: (1) does not own the security sold; or (2) if owning the security, does not deliver it against such sale within 20 days thereafter, or does not within 5 days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that, notwithstanding the exercise of good faith, he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

(d) The provisions of subsection (b) of this section shall not apply to any purchase and sale, or sale and purchase, and the provisions of subsection (c) of this section shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined in the Securities Exchange Act of 1934) for such security. The Council of the District of Columbia may, by such rules and regulations as it deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

(e) The provisions of subsections (a), (b), and (c) of this section shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the Council of the District of Columbia may adopt in order to carry out the purposes of this section.

(f) The term "equity security" when used in this section means any stock or similar security; or any security convertible with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Council of the District of Columbia shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as it may prescribe in the public interest or for the protection of investors, to treat as an equity security.

(g) The provisions of subsections (a), (b), and (c) of this section shall not apply to securities of a domestic stock insurance company if:

(1) Such securities shall be registered, or shall be required to be registered, pursuant to § 12 of the Securities Exchange Act of 1934, as amended (§ 781 of Title 15, United States Code); or

(2) Such domestic stock insurance company shall not have any class of its equity securities held of record by 100 or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of subsections (a), (b), and (c) of this section except for the provisions of this paragraph.

(h) The Council of the District of Columbia shall make such rules and regulations as may be necessary for the execution of the functions vested in the Commissioner by subsections (a) through (g) of this section, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provisions of subsection (a), (b), or (c) of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Council notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

(i) Any person who willfully violates any provision of this section, or any rule or regulation thereunder, the violation of which is made unlawful by this section or the observance of which is required under the terms of this section, or any person who willfully and knowingly makes, or causes to be made, any statement in any application, report, or document required to be filed under this section, which statement was false or misleading with respect to any material fact, shall upon conviction be fined not more than \$1,000, or be imprisoned not more than 30 days, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(j) This section shall take effect 30 days after April 18, 1966.

(Apr. 18, 1966, 80 Stat. 123, Pub. L. 89-402, § 3; Oct. 5, 1985, D.C. Law 6-42, § 429, 32 DCR 4450; May 21, 1997, D.C. Law 11-268, § 10(f), 44 DCR 1730; March 24, 1998, D.C. Law 12-81, § 20, 45 DCR 745.)

Cross references. — Domestic mutual insurance holding company membership interest as security, see § 31-735.

Mutual insurance holding company membership interest, status as equity security, see § 31-756.

Section references. — This section is referenced in § 31-735 and § 31-756.

Prior Codifications. — 1981 Ed., § 35-213. 1973 Ed., § 35-223.

Legislative history of Law 6-42. — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 31-5201.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-5201.

Legislative history of Law 12-81. — Law 12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997 and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses

of Congress for its review. D. C. Law 12-81 became effective on March 24, 1998.

References in text. — “The Securities Exchange Act of 1934,” referred to in subsection (d) of this section, is classified to 15 U.S.C. §§ 77b to 77e, 77j, 77k, 77m, 77o, 77s, and 78a to 78hh. The definition of an exchange appears in 15 U.S.C. § 78c.

Editor’s notes. — Department of Insurance abolished: See Historical and Statutory Notes following § 31-5201.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402

(419), (420), and (421) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

§ 31-604. Authority and functions of government entities.

Nothing in this chapter shall be construed so as to affect the authority vested in the Mayor of the District of Columbia by Reorganization Plan No. 5 of 1952 (66 Stat. 824). The performance of any function vested by this chapter in the Mayor or in any office or agency under the jurisdiction and control of said Mayor may be delegated by said Mayor in accordance with § 3 of such Plan.

(Apr. 18, 1966, 80 Stat. 125, Pub. L. 89-402, § 4.)

Prior Codifications. — 1981 Ed., § 35-214. 1973 Ed., § 35-224.

Change in Government. — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402 (419), (420), and (421) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the

right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CHAPTER 6A. FINGERPRINT-BASED BACKGROUND CHECKS.

Sec.

31-631. Definitions.

31-632. Fingerprinting and criminal history record background checks.

Sec.

31-633. Confidentiality.

31-634. Rules.

§ 31-631. Definitions.

For the purposes of this chapter, the term:

(1) "Applicant" means an individual, or other person designated by the Commissioner by rule, applying for any of the following:

(A) An initial license as a resident insurance producer pursuant to Chapter 11A of this title [§ 31-1131.01 et seq.], or public insurance adjuster pursuant to Chapter 16A of this title [§ 31-1631.01 et seq.];

(B) A license or registration to be an agent, broker-dealer, investment adviser, or investment adviser representative pursuant to Chapter 56 of this title [§ 31-5601.01 et seq.];

(C) A charter to open and operate a new bank pursuant to Chapter 7 of Title 26 [§ 26-701 et seq.]; or

(D) A license, charter, or registration, other than those designated in subparagraphs (A) through (C) of this paragraph, as designated by the Commissioner by rule.

(2) "Commissioner" means the Commissioner of the Department of Insurance, Securities, and Banking.

(3) "Fingerprint" means an impression of the lines on the finger taken for the purpose of identification. The impression may be electronic or in ink converted to an electronic format.

(June 20, 2012, D.C. Law 19-143, § 101, 59 DCR 4069.)

Legislative history of Law 19-143. — Law 19-143, the "DISB Fingerprint-Based Background Check Authorization Act of 2012", was introduced in Council and assigned Bill No. 19-198, which was referred to the Committee on Public Services and Consumer Affairs. The

Bill was adopted on first and second readings on March 6, 2012, and April 17, 2012, respectively. Signed by the Mayor on April 29, 2012, it was assigned Act No. 19-346 and transmitted to both Houses of Congress for its review. D.C. Law 19-143 became effective on June 20, 2012.

§ 31-632. Fingerprinting and criminal history record background checks.

(a) The Commissioner shall require state and national criminal history record background checks of each applicant for the purpose of determining eligibility for a license, registration, or charter. In order for the Commissioner to obtain and receive national criminal history records from the Federal Bureau of Investigation's Criminal Justice Information Services Division, the Commissioner shall require each applicant to submit a full set of fingerprints, including a scanned electronic or digital fingerprint or a hard copy fingerprint.

(b) The applicant shall bear the cost of administering and processing the fingerprinting and criminal history record background checks. The Commis-

sioner shall establish, by rule, fees to cover the costs associated with the fingerprinting and criminal history record background checks.

(c) The Commissioner may contract for the collection and transmission of fingerprints authorized under this chapter, including any administrative functions related thereto.

(d) The Commissioner may exchange the fingerprints and other information with, and receive criminal history record background information from, the Metropolitan Police Department and the Federal Bureau of Investigation for the purpose of facilitating determinations regarding eligibility for licensure under this chapter. The Metropolitan Police Department may exchange this fingerprint data with the Federal Bureau of Investigation.

(June 20, 2012, D.C. Law 19-143, § 102, 59 DCR 4069.)

Legislative history of Law 19-143. — For history of Law 19-143, see notes under § 31-631.

§ 31-633. Confidentiality.

(a) The Commissioner shall:

(1) Treat and maintain applicants' fingerprints and any criminal history record background information obtained under this chapter as confidential;

(2) Apply security measures consistent with the Criminal Justice Information Services Division of the Federal Bureau of Investigation's standards for the electronic storage of fingerprints and necessary identifying information; and

(3) Limit the use of records solely for the purposes authorized by this chapter.

(b) For the purposes of this chapter, any such records shall:

(1) Not be deemed to be a public record within the meaning of § 2-502(18);

(2) Not be subject to disclosure, except pursuant to a subpoena issued by order of a court of competent jurisdiction;

(3) Be kept confidential by law and privileged; and

(4) Not be subject to discovery or admissible in any private civil action.

(June 20, 2012, D.C. Law 19-143, § 103, 59 DCR 4069.)

Legislative history of Law 19-143. — For history of Law 19-143, see notes under § 31-631.

§ 31-634. Rules.

The Commissioner, pursuant to Chapter 5 of Title 2 [§ 2-501 et seq.], may issue rules to implement the provisions of this chapter.

(June 20, 2012, D.C. Law 19-143, § 104, 59 DCR 4069.)

Legislative history of Law 19-143. — For history of Law 19-143, see notes under § 31-631.

Editor's notes. — Because of the enactment by D.C. Law 11-159 of subchapter II of Chapter 37 of Title 35 [subchapter II of Title 31, 2001

Ed.], the preexisting text, including §§ 35-3701 through 35-3714 [§§ 31-701 through 31-714, 2001 Ed.], was designated as subchapter I.

CHAPTER 7. HOLDING COMPANIES.

Subchapter I. Holding Company System

Sec.

- 31-701. Definitions.
- 31-702. Subsidiaries of insurers.
- 31-703. Acquisition of control of or merger with domestic insurer.
- 31-704. Acquisitions involving insurers not otherwise covered.
- 31-705. Registration of insurers.
- 31-706. Standards and management of an insurer within a holding company system.
- 31-707. Examination.
- 31-708. Confidential treatment.
- 31-709. Injunctions, prohibitions against voting securities, sequestration of voting securities.
- 31-710. Sanctions.
- 31-711. Receivership.
- 31-712. Recovery.
- 31-713. Revocation, suspension, or nonrenewal of insurer's license.
- 31-714. Judicial review; mandamus.

Subchapter II. Mutual Holding Companies

- 31-731. Formation of a mutual holding company.
- 31-732. Merger of policyholder membership interests.

Sec.

- 31-733. Incorporation of holding company; amendment of articles of incorporation.
- 31-734. Insurers rehabilitation and liquidation.
- 31-735. Applicability; membership interest; powers.
- 31-736. Failure to give notice.
- 31-737. Limitations of actions.
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Subchapter III. Reciprocal Insurance Company Conversion

- 31-751. Definitions.
- 31-752. Formation of a mutual insurance holding company from a reciprocal insurance company.
- 31-753. Merger of policyholder membership interests.
- 31-754. Incorporation of holding company.
- 31-755. Insurers rehabilitation and liquidation.
- 31-756. Applicability; membership interest; powers.
- 31-757. Failure to give notice.
- 31-758. Limitations of actions.
- 31-759. Conversion of mutual insurance holding company.
- 31-760. Rulemaking.

*Subchapter I. Holding Company System.***§ 31-701. Definitions.**

For the purposes of this subchapter, the term:

(1) "Affiliate" means a person that directly, or indirectly through 1 or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(1A) "Commissioner" means the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking].

(2) "Control", including the terms "controlling", "controlled by", and "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing 10% or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided by § 31-705(k) that control does not exist in fact. The Mayor may determine, after furnishing all persons in interest notice and opportunity to be heard and

making specific findings of fact to support such a determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "District" means the District of Columbia.

(3A) "Hospital service plan" means a plan for providing hospital and related services by hospitals and others which entitles a subscriber to certain hospital and related services, or to benefits and indemnification for such services.

(4) "Insurance holding company system" means an arrangement which consists of 2 or more affiliated persons, one or more of whom is an insurer.

(5) "Insurer" includes any company defined by §§ 31-2501.03 and 31-4202, authorized to do the business of insurance in the District, except that it shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District, or a state or political subdivision of a state.

(5A) "Medical service plan" means a plan for providing medical services and related services by physicians and others which entitles a subscriber to certain medical and related services, or to benefits and indemnification for such services.

(5B) "Party" means the Mayor and any person or District government agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in any proceeding before the Mayor or an agency, but nothing herein shall be construed to prevent the Mayor or an agency from admitting the Mayor or any person or agency as a party for limited purposes.

(6) "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing acting in concert, but shall not include any joint venture partnership exclusively engaged in owning, managing, leasing, or developing real or tangible personal property.

(7) "Securityholder" means an individual who owns any security of a specified person, including common stock, preferred stock debt obligations, and any other security convertible into or evidencing the right to acquire any of the foregoing.

(8) "Subsidiary" means an affiliate controlled by a specified person directly or indirectly through 1 or more intermediaries.

(9) Repealed.

(10) "Voting security" means any security convertible into or evidencing a right to acquire a voting security.

(Oct. 21, 1993, D.C. Law 10-44, § 2, 40 DCR 6027; May 21, 1997, D.C. Law 11-268, § 10(gg)(1), 44 DCR 1730; Dec. 9, 2003, D.C. Law 15-56, § 2(a), 50 DCR 9188; Apr. 13, 2005, D.C. Law 15-354, § 41, 52 DCR 2638.)

Cross references. — Business transacted with producer controlled insurer, see § 31-401 et seq.

Section references. — This section is referenced in § 31-301, § 31-401, § 31-704, § 31-

1371.05, § 31-1371.06, § 31-3510, and § 31-5031.13.

Prior Codifications. — 1981 Ed., § 35-3701.

Effect of amendments. — D.C. Law 15-56

added pars. (3A), (4A), and (5A).

D.C. Law 15-354, in subsec. (a), validated a previously made technical correction.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of Department of Insurance and Securities Regulation Merger Review Temporary Amendment Act of 2002 (D.C. Law 14-217, March 25, 2003, law notification 50 DCR 2730).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2(a) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2002 (D.C. Act 14-457, July 23, 2002, 48 DCR 8132).

For temporary (90 day) amendment of section, see § 2(a) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of 2002 (D.C. Act 14-513, October 23, 2002, 49 DCR 10475).

For temporary (90 day) amendment of section, see § 2(a) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-8, January 27, 2003, 50 DCR 1473).

For temporary (90 day) amendment of section, see § 2(a) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2003 (D.C. Act 15-205, October 24, 2003, 50 DCR 9845).

For temporary (90 day) amendment of section, see § 2(a) of Department of Insurance and Securities Regulation Merger Review Second Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-257, November 25, 2003, 50 DCR 11006).

Legislative history of Law 10-44. — Law 10-44, the “Holding Company System Act of 1993,” was introduced in Council and assigned Bill No. 10-132, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 5, 1993, it was assigned Act No. 10-79 and transmitted to both Houses of Congress for its re-

view. D.C. Law 10-44 became effective on October 21, 1993.

Legislative history of Law 11-268. — Law 11-268, the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective May 21, 1997.

Legislative history of Law 15-56. — Law 15-56, the “Department of Insurance and Securities Merger Review Amendment Act of 2003,” was introduced in Council and assigned Bill No. 15-18, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 8, 2003, and September 16, 2003, respectively. Signed by the Mayor on October 6, 2003, it was assigned Act No. 15-175 and transmitted to both Houses of Congress for its review. D.C. Law 15-56 became effective on December 9, 2003.

Legislative history of Law 15-354. — For Law 15-354, see notes following § 31-101.

Delegation of Authority. — Delegation of authority pursuant to D.C. Law 10-44, the Holding Company System Act of 1993, see Mayor’s Order 94-54, March 7, 1994 (41 DCR 1433).

Editor’s notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, “subchapter” has been substituted for “chapter” in the introductory language.

Mayor authorized to issue rules: Section 10 of D.C. Law 10-44 provided that the Mayor shall, pursuant to subchapter I of Chapter 15 of Title 1 [subchapter I of Chapter 5 of Title 2, 2001 Ed.], issue rules to implement the provisions of this chapter (now subchapter).

§ 31-702. Subsidiaries of insurers.

(a) Any domestic insurer, either by itself or in cooperation with 1 or more persons, may organize or acquire 1 or more subsidiaries. The subsidiaries may conduct any kind of business and their authority to do so shall not be limited by reason of the fact that they are subsidiaries of a domestic insurer.

(b) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under the insurance laws of the District, a domestic insurer may also:

(1) Invest, in common stock, preferred stock, debt obligations, and other securities of 1 or more subsidiaries, amounts which do not exceed the lesser of 10% of the insurer's assets or 50% of the insurer's surplus as regards policyholders; provided that after these investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of these investments, investments in domestic or foreign insurance subsidiaries shall be excluded, and there shall be included:

(A) Total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and

(B) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;

(2) Invest any amount in common stock, preferred stock, debt obligations, and other securities of 1 or more subsidiaries engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the insurer, provided, that each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in or in paragraph (1) of this subsection or in § 31-2502.18 [repealed], or in §§ 31-4435 [repealed] and 31-4442, applicable to the insurer. For the purposes of this paragraph, the term "the total investment of the insurer" shall include:

(A) Any direct investment by the insurer in an asset; and

(B) The insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the ownership of such a subsidiary; or

(3) With the approval of the Mayor, invest any greater amount in common stock, preferred stock, debt obligations, or other securities of 1 or more subsidiaries; provided, that after the investment the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(c) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (b) of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in the insurance laws of the District applicable to the investments of insurers.

(d) Whether any investment pursuant to subsection (b) of this section meets the applicable requirements is to be determined before the investment is made by calculating the applicable investment limitations as though the investment had already been made, taking into account the then outstanding principal balance on all previous investments in debt obligations, and the value of all previous investments in equity securities as of the day they were made, net of any return of capital invested, not including dividends.

(e) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within 3 years from the time of the cessation of control or within any further time the Mayor may prescribe, unless at any time after the investment shall have been made, the investment shall have met the requirements for investment under any other section of the insurance laws of the District, and the insurer has notified the Mayor.

(Oct. 21, 1993, D.C. Law 10-44, § 3, 40 DCR 6027; Mar. 24, 1998, D.C. Law 12-81, § 40(a), 45 DCR 745.)

Section references. — This section is referenced in § 31-755 and § 31-1371.03.

Prior Codifications. — 1981 Ed., § 35-3702.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 12-81. — Law 12-81, the “Technical Amendments Act of 1998,”

was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

§ 31-703. Acquisition of control of or merger with domestic insurer.

(a)(1) No person other than the issuer shall make a tender offer for or a request or invitation for tenders of, enter into any agreement to exchange securities, or seek to acquire, or acquire, in the open market or otherwise, any voting security of a domestic insurer, if, after consummation, the person would, directly or indirectly (or by conversion or by exercise of any right to acquire) be in control of the insurer.

(2) No person shall enter into an agreement to merge with or otherwise to acquire control of a domestic insurer or any person controlling a domestic insurer unless, at the time the offer, request, or invitation is made or any agreement is entered into, or prior to the acquisition of the securities if no offer or agreement is involved, the person has filed with the Mayor and has sent to the insurer, a statement containing the information required by this section and the offer, request, invitation, agreement, or acquisition has been approved by the Mayor in the manner prescribed by this subchapter.

(b)(1) For purposes of this section, the term “domestic insurer” shall include any person controlling a domestic insurer unless the person, as determined by the Mayor, is either directly or through its affiliates primarily engaged in business other than the business of insurance. However, such a person shall file a preacquisition notification with the Mayor containing the information set forth in § 31-704(c) 30 days prior to the proposed effective date of the acquisition. Failure to file is subject to § 31-704(e).

(2) For the purposes of this section, the term “person” shall not include any securities broker holding, in the usual and customary brokers function, less than 20% of the voting securities of an insurance company or of any person who controls an insurance company.

(c) The statement to be filed with the Mayor shall be made under oath or affirmation and shall contain the following information:

(1) The name and address of each person by whom or on whose behalf the merger or other acquisition of control referred to in subsections (a) and (b) of this section is to be effected (hereinafter called "acquiring party"):

(A) If the person is an individual, his or her principal occupation and all offices and positions held during the past 5 years, and any conviction of crimes, other than minor traffic violations, during the past 10 years; or

(B) If the person is not an individual, a report of the nature of its business operations during the past 5 years or for any lesser period the person and any predecessors shall have been in existence; an informative description of the business intended to be done by the person and the person's subsidiaries; and a list of all individuals who are or who have been selected to become directors or executive officers of the person, or who perform or will perform functions appropriate to these positions. The list shall include for each individual the information required by subparagraph (A) of this paragraph;

(2) The source, nature, and amount of the consideration used, or to be used, in effecting the merger or other acquisition of control, a description of any transaction wherein funds were or are to be obtained for this purpose (including any pledge of the insurer's stock, or the stock of any of its subsidiaries or controlling affiliates), and the identity of persons furnishing the consideration; provided, however, that where a source of the consideration is a loan made in the lender's ordinary course of business, the identity of the lender shall remain confidential, if the person filing the statement so requests;

(3) Fully audited financial information as to the earnings and financial condition of each acquiring party for the preceding 5 fiscal years of each acquiring party (or for any lesser period as the acquiring party and any predecessors shall have been in existence), and similar unaudited information as of a date not earlier than 90 days prior to the filing of the statement;

(4) Any plans or proposals which each acquiring party may have to liquidate the insurer, to sell its assets or merge or consolidate it with any person, or to make any other material change in its business or corporate structure or management;

(5) The number of shares of any security referred to in subsections (a) and (b) of this section which each acquiring party proposes to acquire, the terms of the offer, request, invitation, agreement, or acquisition referred to in subsections (a) and (b) of this section, and a statement as to the method by which the fairness of the proposal was determined;

(6) The amount of each class of any security referred to in subsections (a) and (b) of this section which is beneficially owned or concerning which there is a right to acquire beneficial ownership by each acquiring party;

(7) A full description of any contracts, arrangements, or understandings with respect to any security referred to in subsections (a) and (b) of this section in which any acquiring party is involved, including, but not limited to, transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guarantees of loans, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. The description shall identify the persons with whom any contracts, arrangements, or understandings have been entered into;

(8) A description of the purchase of any security referred to in subsections (a) and (b) of this section during the 12 calendar months preceding the filing of the statement by any acquiring party, including the dates of purchase, names of the purchasers, and consideration paid or agreed to be paid;

(9) A description of any recommendations to purchase any security referred to in subsections (a) and (b) of this section made during the 12 calendar months preceding the filing of the statement by any acquiring party, or by anyone based upon interviews or at the suggestion of the acquiring party;

(10) Copies of all tender offers for, requests, or invitations for tenders of, exchange offers for, and agreements to acquire or exchange any securities referred to in subsections (a) and (b) of this section, and, if distributed, all additional related soliciting material;

(11) The terms of any agreement, contract, or understanding made with or proposed to be made with any broker-dealer as to solicitation of securities referred to in subsections (a) and (b) of this section for tender, and the amount of any resulting fees, commissions, or other compensation to be paid to broker-dealers; and

(12) Any additional information as the Mayor may by rule or regulation prescribe as necessary or appropriate for the protection of policyholders of the insurer or in the public interest.

(d) If the person required to file the statement referred to in subsections (a) and (b) of this section is a partnership, limited partnership, syndicate or other group, the Mayor may require that the information called for by subsection (c)(1) through (12) of this section shall be given with respect to each partner of the partnership or limited partnership, each member of the syndicate or group, and each person who controls the partner or member. If any partner, member, or person is a corporation, or the person required to file the statement referred to in subsections (a) and (b) of this section is a corporation, the Mayor may require that the information called for by subsection (c)(1) through (12) of this section shall be given with respect to the corporation, each officer and director of the corporation, and each person who is directly or indirectly the beneficial owner of more than 10% of the outstanding voting securities of the corporation.

(e) If any material change occurs in the facts set forth in the statement filed with the Mayor and sent to the insurer pursuant to this section, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the Mayor and sent to the insurer within 2 business days after the person learns of the change.

(f) If any offer, request, invitation, agreement, or acquisition referred to in subsections (a) and (b) of this section is proposed to be made by means of a registration statement under the Securities Act of 1933 (15 U.S.C. § 77a et seq.), or in circumstances requiring the disclosure of similar information under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or under a state law requiring similar registration or disclosure, the person required to file the statement referred to in subsections (a) and (b) of this section may utilize the documents in furnishing the information called for by that statement.

(g)(1)(A) If the acquiring company proposes to acquire a domestic insurer which is not a nonprofit hospital service plan or medical service plan, the

Mayor shall approve any merger or other acquisition of control referred to in subsections (a) and (b) of this section unless, after a public hearing, the Mayor finds that:

(i) After the change of control, the domestic insurer referred to in subsections (a) and (b) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in the District or tend to create a monopoly. In applying the competitive standard in this sub-subparagraph:

(I) The informational requirements of § 31-704(c)(1) and the standards of § 31-704(d)(2) shall apply;

(II) The merger or other acquisition shall not be disapproved if the Mayor finds that any of the situations meeting the criteria provided by § 31-704(d)(3) exist; and

(III) The Mayor may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(iii) The financial condition of any acquiring company is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The plans or proposals which the acquiring company has to liquidate the insurer, sell its assets, or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management are unfair and unreasonable to policyholders of the insurer or are not in the public interest;

(v) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vi) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

(B)(i) If an acquiring company proposes to acquire a domestic insurer which is a nonprofit hospital plan or medical service plan, the same procedure shall apply as provided in subparagraph (A) of this paragraph; provided, that the acquiring company shall have the burden of establishing that the proposed merger or acquisition of control does not result in the existence of any of the conditions set forth in sub-subparagraphs (i) through (vi) of subparagraph (A).

(ii) The determination made by the Mayor as provided in subparagraph (A) of this paragraph shall not become effective until 90 days after the Mayor makes the determination.

(2) The public hearing referred to in paragraph (1) of this subsection shall be held within 120 days after the statement required by subsections (a) and (b) of this section is filed, and at least 20-days notice shall be given by the Mayor to the person filing the statement; provided, that the Mayor may extend the 120-day period if all parties consent to the extension. Not less than 7-days

notice of the public hearing shall be given by the person filing the statement to the insurer and to any other persons designated by the Mayor. The Mayor shall make a determination within 120 days after the conclusion of the hearing; provided, that the Mayor may extend this period if all parties consent to the extension. At the hearing, the person filing the statement, the insurer, and any party shall have the right to present evidence, examine and cross-examine witnesses, and offer oral and written arguments, and shall be entitled to conduct discovery proceedings in the same manner as is presently allowed in the Superior Court of the District of Columbia. All discovery proceedings shall be concluded not later than 3 days prior to the commencement of the public hearing.

(3) The Mayor may retain, at the acquiring person's expense, any attorneys, actuaries, accountants, and other experts not otherwise a part of the Mayor's staff as may be reasonably necessary to assist the Mayor in reviewing the proposed acquisition of control. For this purpose, the Mayor shall be exempt from the provisions of Unit A of Chapter 3 of Title 2.

(h) The provisions of this section shall not apply to:

(1) Any transaction which is subject to the laws of the District dealing with the merger or consolidation of 2 or more insurers; or

(2) Any offer, request, invitation, agreement, or acquisition which the Mayor by order shall exempt as:

(A) Not having been made or entered into for the purpose and not having the effect of changing or influencing the control of a domestic insurer; or

(B) Otherwise not comprehended within the purposes of this section.

(i) The following shall be violations of this section:

(1) The failure to file any statement, amendment, or other material required to be filed pursuant to subsection (a), (b), or (c) of this section; and

(2) The effectuation, or any attempt to effectuate, an acquisition of control of, or merger with, a domestic insurer unless the Mayor has given approval.

(j) Every person not resident, domiciled, or authorized to do business in the District who files a statement with the Mayor under this section shall be deemed to have performed acts equivalent to and constituting an appointment by such a person of the Mayor to be his or her true and lawful attorney upon whom may be served all lawful process in any action, suit, or proceeding arising out of violations of this section. Copies of all lawful process shall be served on the Mayor and transmitted by registered or certified mail by the Mayor to the person at his or her last known address.

(Oct. 21, 1993, D.C. Law 10-44, § 4, 40 DCR 6027; Mar. 24, 1998, D.C. Law 12-81, § 40(b), 45 DCR 745; Mar. 25, 2003, D.C. Law 14-236, § 2, 49 DCR 10483; Dec. 9, 2003, D.C. Law 15-56, § 2(b), 50 DCR 9188.)

Section references. — This section is referenced in § 31-704, § 31-709, § 31-731, § 31-732, § 31-752, § 31-753, and § 31-755.

Prior Codifications. — 1981 Ed., § 35-3703.

Effect of amendments. — D.C. Law 14-236, in subsec. (g)(3), added the last sentence.

D.C. Law 15-56, in subsec. (g), rewrote par. (1), and in par. (2), substituted "The public hearing referred to in paragraph (1) of this

subsection shall be held within 120 days after the statement required by subsections (a) and (b) of this section is filed, and at least 20-days notice shall be given by the Mayor to the person filing the statement; provided, that the Mayor may extend the 120-day period if all parties consent to the extension." for "The public hearing referred to in paragraph (1) of this subsection shall be held within 30 days after the statement required by subsections (a) and (b) of this section is filed, and at least 20-days notice shall be given by the Mayor to the person filing the statement.", substituted "The Mayor shall make a determination within 120 days after the conclusion of the hearing; provided, that the Mayor may extend this period if all parties consent to the extension." for "The Mayor shall make a determination within 30 days after the conclusion of the hearing.", and substituted "and any party" for "any person to whom notice of hearing was sent, and any other person whose interest may be affected".

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2 of Department of Insurance and Securities Regulation Procurement Temporary Act of 2002 (D.C. Law 14-159, June 25, 2002, law notification 49 DCR 6495).

For temporary (225 day) amendment of section, see § 2(b) of Department of Insurance and Securities Regulation Merger Review Temporary Amendment Act of 2002 (D.C. Law 14-217, March 25, 2003, law notification 50 DCR 2730).

Emergency legislation. — For temporary (90 day) amendment of section, see § 2 of Department of Insurance and Securities Regulation Procurement Emergency Act of 2002 (D.C. Act 14-314, March 26, 2002, 49 DCR 3451).

For temporary (90 day) amendment of section, see § 2(b) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2002 (D.C. Act 14-457, July 23, 2002, 48 DCR 8132).

For temporary (90 day) amendment of section, see § 2(b) of Department of Insurance and Securities Regulation Merger Review Congressional Review Emergency Amendment Act of

2002 (D.C. Act 14-513, October 23, 2002, 49 DCR 10475).

For temporary (90 day) amendment of section, see § 2(b) of Department of Insurance and Securities Regulation Merger Congressional Review Emergency Act of 2003 (D.C. Act 15-8, January 27, 2003, 50 DCR 1473).

For temporary (90 day) amendment of section, see § 2 of Department of Insurance and Securities Regulation Procurement Congressional Review Emergency Act of 2003 (D.C. Act 15-9, January 27, 2003, 50 DCR 1478).

For temporary (90 day) amendment of section, see § 2(b) of Department of Insurance and Securities Regulation Merger Review Emergency Amendment Act of 2003 (D.C. Act 15-205, October 24, 2003, 50 DCR 9845).

For temporary (90 day) amendment of section, see § 2(b) of Department of Insurance and Securities Regulation Merger Review Second Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-257, November 25, 2003, 50 DCR 11006).

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-702.

Legislative history of Law 14-236. — Law 14-236, the "Department of Insurance and Securities Regulation Procurement Amendment Act of 2002", was introduced in Council and assigned Bill No. 14-571, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 2, 2002, and October 1, 2002, respectively. Signed by the Mayor on October 23, 2002, it was assigned Act No. 14-515 and transmitted to both Houses of Congress for its review. D.C. Law 14-236 became effective on March 25, 2003.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (a)(2).

CASE NOTES

ANALYSIS

Approval of mergers.
Review.

Approval of mergers.

Department of Insurance and Securities Regulation (DISR) adequately considered petitioners' contentions, before approving business combination of health insurance carriers, that proposed transaction posed threat to one carrier's charitable assets by allowing conversion

into a for-profit corporation and that structuring of executive compensation contracts placed integrity of carrier's officers in question. *Fair Care Found. v. District of Columbia Dep't of Ins. & Sec. Regulation*, 716 A.2d 987, 1998 D.C. App. LEXIS 157 (1998).

In proceeding for approval of business combination of health insurance carriers, letter of clarification issued by Department of Insurance and Securities Regulation (DISR) at behest of the carriers, without notice and opportunity to

be heard for parties objecting to proposed transaction, was supplemental order improperly precipitated by ex parte contacts to alter conditions attached to previous approval decision. D.C. Code 1981, § 1-1509(c). *Fair Care Found. v. District of Columbia Dep't of Ins. & Sec. Regulation*, 716 A.2d 987, 1998 D.C. App. LEXIS 157 (1998).

Review.

On review of agency decision approving business combination of health insurance carriers, petitioners, who initially asserted a right to

cross-examination of witnesses by requesting that such procedure be followed, abandoned that asserted right by not objecting when a contrary procedure was announced and by remaining silent when Commissioner of Department of Insurance and Securities Regulation (DISR) asked if there were any more issues to be considered; petitioners' objection to lack of cross-examination after record was closed was too late. D.C. Code 1981, § 35-3703(g)(2). *Fair Care Found. v. District of Columbia Dep't of Ins. & Sec. Regulation*, 716 A.2d 987, 1998 D.C. App. LEXIS 157 (1998).

§ 31-704. Acquisitions involving insurers not otherwise covered.

(a) For the purposes of this section, the term:

(1) "Acquisition" means any agreement, arrangement, or activity the consummation of which results in a person acquiring, directly or indirectly, the control of another person, and includes, but is not limited to, the acquisition of voting securities, the acquisition of assets, bulk reinsurance, and mergers.

(2) "Involved insurer" means an insurer that either acquires or is acquired, is affiliated with an acquirer or acquired, or is the result of a merger.

(b)(1) Except as provided in paragraph (2) of this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in the District.

(2) This section shall not apply to the following:

(A) An acquisition subject to approval or disapproval by the Mayor pursuant to § 31-703;

(B) A purchase of securities solely for investment purposes as long as the securities are not used by voting or otherwise to cause, or attempt to cause, the substantial lessening of competition in any insurance market in the District. If a purchase of securities results in a presumption of control as defined in § 31-701(2), it is not solely for investment purposes unless the Commissioner of Insurance or other appropriate official of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and the disclaimer action or affirmative finding is communicated by the domiciliary Commissioner to the Mayor;

(C) The acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if preacquisition notification is filed with the Mayor in accordance with subsection (c)(1) of this section 30 days prior to the proposed effective date of the acquisition. This preacquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other subparagraph of paragraph (2) of this subsection;

(D) The acquisition of already affiliated persons;

(E)(i) An acquisition if, as an immediate result of the acquisition:

(I) In no market would the combined market share of the involved insurers exceed 5% of the total market;

(II) There would be no increase in any market share; or

(III) In no market would the combined market share of the involved insurers exceed 12% of the total market, and the market share increases by more than 2% of the total market.

(ii) For the purposes of this subparagraph, the term "market" means direct written insurance premium in the District for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in the District;

(F) An acquisition for which a preacquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business; and

(G) An acquisition of an insurer whose domiciliary state insurance commissioner or other appropriate official affirmatively finds that the insurer is in failing condition, there is a lack of a feasible alternative to improving the condition, the public benefits of improving the insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition, and these findings are communicated by the domiciliary state insurance commissioner or other appropriate official to the Mayor.

(c)(1) An acquisition covered by subsection (b) of this section may be subject to an order pursuant to subsection (e) of this section unless the acquiring person files a preacquisition notification and the waiting period has expired. The acquired person may file a preacquisition notification. The Mayor shall give confidential treatment to information submitted under this subsection in the same manner as provided in § 31-708.

(2) The preacquisition notification shall be in the form and contain the information prescribed by the National Association of Insurance Commissioners relating to those markets which, under subsection (b)(2)(E) of this section, cause the acquisition not to be exempted from the provisions of this section. The Mayor may require any additional material and information the Mayor deems necessary to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (d) of this section. The required information may include an opinion of an economist as to the competitive impact of the acquisition in the District accompanied by a summary of the education and experience of such person indicating his or her ability to render an informed opinion.

(3) The waiting period required shall begin on the date of receipt by the Mayor of a preacquisition notification and shall end on the earlier of the 30th day after the date of the receipt or termination of the waiting period by the Mayor. Prior to the end of the waiting period, the Mayor, on a one-time basis, may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the 30th day after receipt of the additional information by the Mayor or termination of the waiting period by the Mayor.

(d)(1) The Mayor may enter an order under subsection (e)(1) of this section with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be to lessen substantially competition in any line of insurance in the District, or tend to create a monopoly therein, or if the insurer fails to file adequate information in compliance with subsection (c) of this section.

(2) In determining whether a proposed acquisition would violate the competitive standard of paragraph (1) of this subsection, the Mayor shall consider the following:

(A) Any acquisition covered under subsection (b) of this section involving 2 or more insurers competing in the same market is prima facie evidence of violation of the competitive standards if the market is highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
4%	4% or more
10%	2% or more
15%	1% or more

or, if the market is not highly concentrated and the involved insurers possess the following shares of the market:

Insurer A	Insurer B
5%	5% or more
10%	4% or more
15%	3% or more
19%	1% or more.

A highly concentrated market is one in which the share of the 4 largest insurers is 75% or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than 2 insurers are involved, exceeding the total of the 2 columns in the table is prima facie evidence of violation of the competitive standard in paragraph (1) of this subsection. For the purposes of this subparagraph, the insurer with the largest share of the market shall be deemed to be Insurer A.

(B) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the 2 largest to the 8 largest, has increased by 7% or more of the market over a period of time extending from any base year 5 to 10 years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subsection (b) of this section involving 2 or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in paragraph (1) of this subsection if:

(i) There is a significant trend toward increased concentration in the market;

(ii) One of the insurers involved is one of the insurers in a grouping of large insurers showing the requisite increase in the market share; and

(iii) Another involved insurer's market is 2% or more.

(C) For the purposes of this paragraph, the term:

(i) "Insurer" includes any company or group of companies under common management, ownership, or control.

(ii) "Market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the Mayor shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the National Association of Insurance Commis-

sioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, the line being that used in the annual statement required to be filed by insurers doing business in the District, and the relevant geographical market is assumed to be the District.

(D) The burden of showing prima facie evidence of violation of the competitive standard rests upon the Mayor.

(E) Even though an acquisition is not prima facie violative of the competitive standard under subparagraphs (A) and (B) of this paragraph, the Mayor may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under subparagraphs (A) and (B) of this paragraph, a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this paragraph include, but are not limited to, the following: market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(3) An order may not be entered under subsection (e)(1) through (4) of this section if:

(A) The acquisition will yield substantial economies of scale or economies in resource utilization that feasibly cannot be achieved in any other way, and the public benefits which would arise from these economies exceed the public benefits which would arise from not lessening competition; or

(B) The acquisition will substantially increase the availability of insurance, and the public benefits of this increase exceed the public benefits which would arise from not lessening competition.

(e)(1) If an acquisition violates the standards of this section, the Mayor may enter an order:

(A) Requiring an involved insurer to cease and desist from doing business in the District with respect to the line or lines of insurance involved in the violation; or

(B) Denying the application of an acquired or acquiring insurer for a license to do business in the District.

(2) An order under this subsection shall not be entered unless:

(A) There is a hearing;

(B) Notice of the hearing is issued prior to the end of the waiting period and not less than 15 days prior to the hearing; and

(C) The hearing is concluded and the order is issued no later than 60 days after the end of the waiting period. Every order shall be accompanied by a written decision of the Mayor setting forth findings of fact and conclusions of law.

(3) An order entered under this subsection shall not become final earlier than 30 days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon such a plan or other information, the Mayor

shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.

(4) An order pursuant to this subsection shall not apply if the acquisition is not consummated.

(5) Any person who violates a cease and desist order of the Mayor under paragraph (1) of this subsection while such an order is in effect may, after notice and hearing and upon order of the Mayor, be subject, at the discretion of the Mayor, to any one or more of the following:

(A) A monetary administrative penalty of not more than \$10,000 for every day of violation; or

(B) Suspension or revocation of the person's license.

(6) Any insurer or other person who fails to make any filing required by this section, and who also fails to demonstrate a good faith effort to comply with any filing requirement, shall be subject to an administrative fine of not more than \$50,000.

(f) Sections 31-709(b) and (c) and 31-711 do not apply to acquisitions covered under subsection (b) of this section.

(Oct. 21, 1993, D.C. Law 10-44, § 5, 40 DCR 6027; May 16, 1995, D.C. Law 10-255, § 32(a), 41 DCR 5193; Apr. 18, 1996, D.C. Law 11-110, § 42, 43 DCR 530.)

Section references. — This section is referenced in § 31-703.

Prior Codifications. — 1981 Ed., § 35-3704.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 10-255. — Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No.

10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

Legislative history of Law 11-110. — Law 11-110, the "Technical Amendment Acts of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

§ 31-705. Registration of insurers.

(a)(1) Every insurer which is authorized to do business in the District and which is a member of an insurance holding company system shall register with the Mayor, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile which are substantially similar to those contained in the following provisions of this subchapter:

(A) This section;

(B) Section 31-706(a)(1), (b), and (d); and

(C) Either § 31-706(a)(2) or a provision like the following: "Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions

within 15 days after the end of the month in which it learns of each change or addition.”.

(2) Any insurer which is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by April 30 of each year, unless the Mayor for good cause shown extends the time for registration, and then within the extended time. The Mayor may require any insurer authorized to do business in the District which is a member of a holding company system, and which is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subsection (c) of this section or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

(b) Every insurer subject to registration shall file the registration statement on a form prescribed by the NAIC, which shall contain the following current information:

(1) The capital structure, general financial condition, ownership, and management of the insurer and any person controlling the insurer;

(2) The identity and relationship of every member of the insurance holding company system;

(3) The following agreements in force, and transactions currently outstanding or which have occurred during the last calendar year between the insurer and its affiliates:

(A) Loans, other investments, or purchases, sales, or exchange of securities of the affiliates by the insurer or of the insurer by its affiliates;

(B) Purchases, sales, or exchange of assets;

(C) Transactions not in the ordinary course of business;

(D) Guarantees or undertakings for the benefit of an affiliate which result in an actual contingent exposure of the insurer's assets to liability, other than insurance contracts entered into in the ordinary course of the insurer's business;

(E) All management agreements, service contracts, and all cost-sharing arrangements;

(F) Reinsurance agreements;

(G) Dividends and other distributions to shareholders; and

(H) Consolidated tax allocation agreements;

(4) Any pledge of the insurer's stock, including stock of any subsidiary or controlling affiliate, for a loan made to any member of the insurance holding company system; and

(5) Other matters concerning transactions between registered insurers and any affiliates as may be included from time to time in any registration forms adopted or approved by the Mayor.

(c) All registration statements shall contain a summary outlining all items in the current registration statement which are different from the prior registration statement.

(d) No information need be disclosed on the registration statement filed pursuant to subsection (b) of this section if the information is not material for the purposes of this section. Unless the Mayor by rule, regulation, or order

provides otherwise, sales, purchases, exchanges, loans or extensions of credit, investments, or guarantees involving one-half of 1% or less of an insurer's admitted assets as of the 31st day of December next preceding shall not be deemed material for purposes of this section.

(e) Subject to § 31-706(b), each registered insurer shall report to the Mayor all dividends and other distributions to shareholders within 15 business days following their declaration.

(f) Any person within an insurance holding company system subject to registration shall be required to provide complete and accurate information to an insurer, where the information is reasonably necessary to enable the insurer to comply with the provisions of this subchapter.

(g) The Mayor shall terminate the registration of any insurer which demonstrates that it no longer is a member of an insurance holding company system.

(h) The Mayor may require or allow 2 or more affiliated insurers subject to registration to file a consolidated registration statement.

(i) The Mayor may allow an insurer which is authorized to do business in the District and which is part of an insurance holding company system to register on behalf of any affiliated insurer which is required to register under subsection (a) of this section and to file all information and material required to be filed under this section.

(j) The provisions of this section shall not apply to any insurer, information, or transaction if and to the extent that the Mayor by rule, regulation, or order shall exempt the same from the provisions of this section.

(k) Any person may file with the Mayor a disclaimer of affiliation with any authorized insurer or such a disclaimer may be filed by the insurer or any member of an insurance holding company system. The disclaimer shall fully disclose all material relationships and bases for affiliation between the person and the insurer as well as the basis for disclaiming the affiliation. After a disclaimer has been filed, the insurer shall be relieved of any duty to register or report under this section which may arise out of the insurer's relationship with the person unless and until the Mayor disallows such a disclaimer. The Mayor shall disallow such a disclaimer only after furnishing all parties in interest with notice and opportunity to be heard and after making specific findings of fact to support the disallowance.

(l) The failure to file a registration statement or any summary of the registration statement required by this section within the time specified for such a filing shall be a violation of this section.

(Oct. 21, 1993, D.C. Law 10-44, § 6, 40 DCR 6027; May 16, 1995, D.C. Law 10-255, § 32(b), 41 DCR 5193; Apr. 9, 1997, D.C. Law 11-255, § 43, 44 DCR 1271.)

Section references. — This section is referenced in § 31-701, § 31-707, § 31-708, and § 31-710.

Prior Codifications. — 1981 Ed., § 35-3705.

Legislative history of Law 10-44. — For

legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 10-255. — For legislative history of D.C. Law 10-255, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 11-255. — Law

11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in the introductory language of (a)(1) and in (f).

§ 31-706. Standards and management of an insurer within a holding company system.

(a)(1) Transactions within a holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

(A) The terms shall be fair and reasonable;

(B) Charges or fees for services performed shall be reasonable;

(C) Expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied;

(D) The books, accounts, and records of each party to all the transactions shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including any accounting information necessary to support the reasonableness of the charges or fees to the respective parties; and

(E) The insurer's surplus as regards policyholders following any dividends or distributions to shareholder affiliates shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(2) The following transactions involving a domestic insurer and any person in its holding company system may not be entered into unless the insurer has notified the Mayor in writing of its intention to enter into such a transaction at least 30 days prior thereto, or any shorter period as the Mayor may permit, and the Mayor has not disapproved it within such a period:

(A) Sales, purchases, exchanges, loans, or extensions of credit, guarantees, or investments provided the transactions are equal to or exceed:

(i) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders as of December 31st next preceding; or

(ii) With respect to life insurers, 3% of the insurer's admitted assets as of December 31st next preceding;

(B) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making the loans or extensions of credit, provided the transactions are equal to or exceed:

(i) With respect to nonlife insurers, the lesser of 3% of the insurer's admitted assets or 25% of surplus as regards policyholders as of December 31st next preceding; or

(ii) With respect to life insurers, 3% of the insurer's admitted assets as of December 31st next preceding;

(C) Reinsurance agreements or modifications in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds 5% of the insurer's surplus as regards policyholders, as of the 31st day of December next preceding, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to 1 or more affiliates of the insurer;

(D) All management agreements, service contracts, and all cost-sharing arrangements; and

(E) Any material transactions, specified by regulation, which the Mayor determines may adversely affect the interests of the insurer's policyholders.

(3) Nothing contained in paragraph (2) of this subsection shall be deemed to authorize or permit any transactions which, in the case of an insurer not a member of the same holding company system, would be otherwise contrary to law.

(4) A domestic insurer may not enter into transactions which are part of a plan or series of like transactions with persons within the holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise. If the Mayor determines that any separate transactions were entered into over any 12-month period for that purpose, the Mayor may exercise authority provided under § 31-710.

(5) The Mayor, in reviewing transactions pursuant to subsection (a)(2) of this section, shall consider whether the transactions comply with the standards set forth in subsection (a)(1) of this section and whether they may adversely affect the interests of policyholders.

(6) The Mayor shall be notified within 30 days of any investment of the domestic insurer in any one corporation if the total investment in such corporation by the insurance holding company system exceeds 10% of such corporation's voting securities.

(b)(1) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until:

(A) Thirty days after the Mayor has received notice of the declaration and has not within this period disapproved the payment; or

(B) The Mayor shall have approved the payment within the 30-day period.

(2) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the lesser of 10% of the insurer's surplus as regards policyholders as of the 31st day of December next preceding, or the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own

securities. In determining whether a dividend or distribution is extraordinary, an insurer other than a life insurer may carry forward net income from the previous 2 calendar years that has not already been paid out as dividends. This carry-forward shall be computed by taking the net income from the second and third preceding calendar years, not including realized capital gains, less dividends paid in the second and immediate preceding calendar years.

(3) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the Mayor's approval, and such a declaration shall confer no rights upon shareholders until the Mayor has approved the payment of such a dividend or distribution, or the Mayor has not disapproved the payment within the 30-day period referred to above.

(c)(1) Notwithstanding the control of a domestic insurer by any person, the officers and directors of the insurer shall not thereby be relieved of any obligation or liability to which they would otherwise be subject by law, and the insurer shall be managed so as to assure its separate operating identity consistent with this subchapter.

(2) Nothing herein shall preclude a domestic insurer from having or sharing a common management or cooperative or joint use of personnel, property, or services with 1 or more other persons under arrangements meeting the standards of subsection (a)(1) of this section.

(3) Not less than $\frac{1}{3}$ of the directors of a domestic insurer and not less than $\frac{1}{3}$ of the members of each committee of the board of directors of any domestic insurer shall be persons who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer and who are not beneficial owners of a controlling interest in the voting stock of the insurer or such an entity. At least 1 such person must be included in any quorum for the transaction of business at any meeting of the board of directors or any committee.

(4) The board of directors of a domestic insurer shall establish 1 or more committees comprised solely of directors who are not officers or employees of the insurer or of any entity controlling, controlled by, or under common control with the insurer, and who are not beneficial owners of a controlling interest in the voting stock of the insurer or any such entity. The committee or committees shall have responsibility for recommending the selection of independent certified public accountants, reviewing the insurer's financial condition, the scope and results of the independent audit and any internal audit, nominating candidates for director for election by shareholders or policyholders, evaluating the performance of officers deemed to be principal officers of the insurer, and recommending to the board of directors the selection and compensation of the principal officers.

(5) The provisions of paragraphs (3) and (4) of this subsection shall not apply to a domestic insurer if the person controlling the insurer is an insurer having a board of directors and committees that meet the requirements of paragraphs (3) and (4) of this subsection.

(d) For purposes of this subchapter, in determining whether an insurer's surplus as regards policyholders is reasonable in relation to the insurer's

outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

- (1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force, and other appropriate criteria;
- (2) The extent to which the insurer's business is diversified among the several lines of insurance;
- (3) The number and size of risks insured in each line of business;
- (4) The extent of the geographical dispersion of the insurer's insured risks;
- (5) The nature and extent of the insurer's reinsurance program;
- (6) The quality, diversification, and liquidity of the insurer's investment portfolio;
- (7) The recent past and projected future trend in the size of the insurer's investment portfolio;
- (8) The surplus as regards policyholders maintained by other comparable insurers;
- (9) The adequacy of the insurer's reserves; and
- (10) The quality and liquidity of investments in affiliates. The Mayor may treat such an investment as a disallowed asset for purposes of determining the adequacy of surplus as regards policyholders whenever in his or her judgment such an investment so warrants.

(Oct. 21, 1993, D.C. Law 10-44, § 7, 40 DCR 6027; Apr. 26, 1994, D.C. Law 10-103, § 8, 41 DCR 1005; Feb. 27, 1996, D.C. Law 11-90, §§ 8(a), 8(b), 42 DCR 7155.)

Cross references. — Hospital and medical services corporations, directors and trustees, see § 31-3518.

Section references. — This section is referenced in § 31-705, § 31-708, § 31-710, § 31-3518, § 31-3523, and § 31-5031.10.

Prior Codifications. — 1981 Ed., § 35-3706.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 8 of the Insurance Omnibus Temporary Amendment Act of 1993 (D.C. Law 10-76, March 17 1994, law notification 41 DCR 1626).

For temporary (225 day) amendment of section, see § 8(a), (b) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 9(a) and (b) of the Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 8(a) and (b) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 10-103. — Law 10-103, the "Insurance Omnibus Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-394, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 17, 1994, it was assigned Act No. 10-191 and transmitted to both Houses of Congress for its review. D.C. Law 10-103 became effective on April 26, 1994.

Legislative history of Law 11-90. — Law 11-90, the "Insurance Omnibus Amendment Act of 1995," was introduced in Council and assigned Bill No. 11-182, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 1995, and December 5, 1995, respectively. Signed by the Mayor on December 18, 1995, it was assigned Act No. 11-173 and transmitted to both Houses of Congress for its review. D.C. Law 11-90 became effective on February 27, 1996.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchap-

ter" has been substituted for "chapter" in (c)(1) and (d).

§ 31-707. Examination.

(a) Subject to the limitations contained in this section and in addition to the powers which the Mayor has under the insurance laws of the District relating to the examination of insurers, the Mayor may order any insurer registered under § 31-705 to produce records, books, or other information papers in the possession of the insurer or its affiliates reasonably necessary to ascertain the financial condition of the insurer or to determine compliance with this subchapter. In the event the insurer fails to comply with the order, the Mayor shall have the power to examine such affiliates to obtain the information.

(b) The Mayor may retain, at the registered insurer's expense, those attorneys, actuaries, accountants and other experts not otherwise a part of the Mayor's staff reasonably necessary to assist in the conduct of the examination under subsection (a) of this section. Any person so retained shall be under the direction and control of the Mayor and shall act in a purely advisory capacity.

(c) Each registered insurer producing records, books and papers for examination pursuant to subsection (a) of this section shall be liable for and shall pay the expense of the examination in accordance with Chapter 14 of this title governing cost of examinations.

(Oct. 21, 1993, D.C. Law 10-44, § 8, 40 DCR 6027.)

Section references. — This section is referenced in § 31-708.

Prior Codifications. — 1981 Ed., § 35-3707.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (a).

§ 31-708. Confidential treatment.

(a) Documents, materials, or other information in the possession or control of the Department of Insurance, Securities, and Banking that are obtained by or disclosed to the Commissioner or any other person in the course of an examination or investigation made under § 31-707, and all information reported under §§ 31-705 and 31-706, shall be confidential and privileged; shall not be subject to subchapter II of Chapter 5 of Title 2; shall not be subject to subpoena; and shall not be subject to discovery or admissible in evidence in a private civil action; provided, that:

(1) The Commissioner may use the documents, materials or other information in the furtherance of any regulatory or legal action brought as a part of the Commissioner's official duties.

(2) The Commissioner may make the documents, materials, or other information public with the prior written consent of the insurer to which it pertains.

(3) If the Commissioner, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the

interest of policyholders, shareholders or the public will be served by the publication of the documents, materials, or other information, the Commissioner may publish all or any part of the documents, materials, or other information in the manner that the Commissioner considers appropriate.

(b) The Commissioner or any person who received documents, materials, or other information while acting under the authority of the Commissioner shall not be permitted or required to testify in a private civil action concerning confidential documents, materials, or other information subject to subsection (a) of this section.

(c) To assist in the performance of the Commissioner's duties, the Commissioner:

(1) May share documents, materials, or other information, including confidential and privileged documents, materials, or other information subject to subsection (a) of this section, with other state, federal, and international regulatory agencies; with the National Association of Insurance Commissioners, including its affiliates and subsidiaries; and with state, federal, and international law enforcement authorities; provided, that the recipient agrees, and has the legal authority, to maintain the confidentiality and privileged status of the documents, materials, or other information;

(2) May receive documents, materials, or other information, including confidential and privileged documents, materials, or other information, from the National Association of Insurance Commissioners, including its affiliates and subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information; or

(3) May enter into agreements governing the sharing and use of information consistent with this section.

(d) No waiver of an applicable privilege or claim of confidentiality in the documents, materials, or other information shall occur as a result of disclosure to the Commissioner under this section or of sharing as authorized in subsection (c) of this section. Nothing in this section shall require an insurer to disclose documents, materials, or other information that is not otherwise required by law to be disclosed.

(Oct. 21, 1993, D.C. Law 10-44, § 9, 40 DCR 6027; Oct. 21, 2000, D.C. Law 13-191, § 3, 47 DCR 7311; June 11, 2004, D.C. Law 15-166, § 4(e), 51 DCR 2817.)

Section references. — This section is referenced in § 31-704.

Prior Codifications. — 1981 Ed., § 35-3708.

Effect of amendments. — D.C. Law 13-191 rewrote this section which formerly provided: "All information, documents, and copies obtained by or disclosed to the Mayor or any other person in the course of an examination or

investigation made pursuant to § 35-3707 and all information reported pursuant to §§ 35-3705 and 35-3706 shall be given confidential treatment, shall not be subject to subpoena, and shall not be made public by the Mayor, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it per-

tains, unless the Mayor, after giving the insurer and its affiliates who would be affected notice and opportunity to be heard, determines that the interest of policyholders, shareholders, or the public will be served by publication, in which event the Mayor may publish all or any part in such a manner as he or she deems appropriate."

D.C. Law 15-166, in subsec. (a), substituted "Department of Insurance, Securities, and Banking" for "Department of Insurance and Securities Regulation".

Emergency legislation. — For temporary (90 day) amendment of section, see § 4(e) of Consolidation of Financial Services Emergency Amendment Act of 2004 (D.C. Act 15-381, February 27, 2004, 51 DCR 2653).

Legislative history of Law 10-44. — For

legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 13-191. — Law 13-191, the "Insurer Confidentiality and Information Sharing Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-706, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 4, 2000, it was assigned Act No. 13-419 and transmitted to both Houses of Congress for its review. D.C. Law 13-191 became effective on October 21, 2000.

Legislative history of Law 15-166. — For Law 15-166, see notes following § 31-101.

§ 31-709. Injunctions, prohibitions against voting securities, sequestration of voting securities.

(a) Whenever it appears to the Mayor that any insurer or any director, officer, employee, or agent has committed, or is about to commit, a violation of this subchapter or of any rule, regulation, or order issued by the Mayor, the Mayor may apply to the Superior Court of the District of Columbia for an order enjoining the insurer or the director, officer, employee, or agent from violating or continuing to violate this subchapter or any rule, regulation, or order, and for any other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors, and shareholders or the public may require.

(b)(1) No security which is the subject of any agreement or arrangement regarding acquisition, or which is acquired, or to be acquired, in contravention of the provisions of this subchapter, or of any rule, regulation, or order issued by the Mayor pursuant to this subchapter, may be voted at any shareholder's meeting, or may be counted for quorum purposes, and any action of shareholders requiring the affirmative vote of a percentage of shares may be taken as though the securities were not issued and outstanding; but no action taken at such a meeting shall be invalidated by the voting of these securities, unless the action would materially affect control of the insurer or unless the courts of the District of Columbia have so ordered.

(2) If an insurer or the Mayor has reason to believe that any security of the insurer has been, or is about to be, acquired in contravention of the provisions of this subchapter or of any rule, regulation, or order issued by the Mayor pursuant to this subchapter, the insurer or the Mayor may apply to the Superior Court of the District of Columbia to enjoin any offer, request, invitation, agreement, or acquisition made in contravention of § 31-703 or any rule, regulation, or order issued by the Commissioner to enjoin the voting of any security so acquired, to void any vote of such a security already cast at any meeting of shareholders, and for any other equitable relief as the nature of the case and the interest of the insurer's policyholders, creditors, and shareholders or the public may require.

(c) In any case where a person has acquired, or is proposing to acquire, any voting securities in violation of this subchapter or any rule, regulation, or order

issued by the Mayor pursuant to this subchapter, the Superior Court of the District of Columbia may, on that notice the court deems appropriate and upon the application of the insurer or the Mayor, seize or sequester any voting securities of the insurer owned directly or indirectly by the person, and issue an order appropriate to effectuate the provisions of this subchapter.

(d) Notwithstanding any other provisions of law, for the purposes of this subchapter the sites of the ownership of the securities of domestic insurers shall be deemed to be in the District.

(Oct. 21, 1993, D.C. Law 10-44, § 11, 40 DCR 6027; Sept. 8, 1995, D.C. Law 11-36, § 8(c), 42 DCR 3257; Feb. 27, 1996, D.C. Law 11-90, § 8(c), 42 DCR 7155; May 21, 1997, D.C. Law 11-268, § 10(gg)(2), 44 DCR 1730.)

Section references. — This section is referenced in § 31-704.

Prior Codifications. — 1981 Ed., § 35-3709.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 8(c) of Insurance Omnibus Temporary Amendment Act of 1995 (D.C. Law 11-36, September 8, 1995, law notification 42 DCR 5305).

Emergency legislation. — For temporary amendment of section, see § 9(c) of the Insurance Omnibus Emergency Amendment Act of 1995 (D.C. Act 11-48, May 15, 1995, 42 DCR 2544) and § 8(c) of the Insurance Omnibus Congressional Recess Emergency Amendment Act of 1995 (D.C. Act 11-97, July 19, 1995, 42 DCR 3844).

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 11-90. — For legislative history of D.C. Law 11-90, see Historical and Statutory Notes following § 31-706.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-701.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" throughout the section.

§ 31-710. Sanctions.

(a)(1) Any insurer failing, without just cause, to file any registration statement as required in this subchapter shall be required, after notice and hearing, to pay an administrative penalty of \$1,000 for each day's delay, to be recovered by the Mayor and the penalty so recovered shall be paid into the District of Columbia Treasury. The maximum penalty under this section shall be \$100,000.

(2) The Mayor may reduce the penalty if the insurer demonstrates to the Mayor that the imposition of the penalty would constitute a financial hardship to the insurer.

(3) Adjudication of infractions under this section shall be pursuant to Chapter 18 of Title 2.

(b)(1) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly permits any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to § 31-705(a) or § 31-706(a)(2) or (b), or which violate this subchapter, shall pay, in their individual capacity, a civil administrative penalty of not more than \$1,000 per violation, after notice and hearing before the Mayor.

(2) In determining the amount of the civil administrative penalty, the Mayor shall take into account the appropriateness of the forfeiture with

respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(3) Adjudication of any infraction of this subsection shall be pursuant to Chapter 18 of Title 2.

(c)(1) Whenever it appears to the Mayor that any insurer subject to this subchapter, or any director, officer, employee, or agent, has engaged in any transaction or entered into a contract which is subject to § 31-706 and which would not have been approved had approval been requested, the Mayor may order the insurer to immediately cease and desist any further activity under that transaction or contract.

(2) After notice and hearing the Mayor may also order the insurer to void any contracts and restore the status quo if that action is in the best interest of the policyholders, creditors, or the public.

(d)(1) Whenever it appears to the Mayor that any insurer, or any director, officer, employee, or agent, has committed a willful violation of this subchapter, the Mayor may cause criminal proceedings to be instituted in the Superior Court of the District of Columbia against the insurer or the responsible director, officer, employee, or agent.

(2) Any insurer that willfully violates this subchapter may be fined not more than \$1,000,000.

(3) Any individual who willfully violates this subchapter may be fined in his or her individual capacity not more than \$750,000 or be imprisoned for not more than 1 to 3 years, or both.

(e) Any officer, director, or employee of an insurance holding company system who willfully and knowingly subscribes to, or makes or causes to be made, any false statements, false reports, or false filings with the intent to deceive the Mayor in the performance of his or her duties under this subchapter, upon conviction, shall be imprisoned for not more than 3 to 5 years or fined \$100,000, or both. Any fines imposed shall be paid by the officer, director, or employee in his or her individual capacity.

(f) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Oct. 21, 1993, D.C. Law 10-44, § 12, 40 DCR 6027.)

Section references. — This section is referenced in § 31-706.

Prior Codifications. — 1981 Ed., § 35-3710.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" throughout the section.

§ 31-711. Receivership.

Whenever it appears to the Mayor that any person has committed a violation of this subchapter which so impairs the financial condition of a domestic

insurer as to threaten insolvency or make the further transaction of business by it hazardous to its policyholders, creditors, shareholders, or the public, the Commissioner may proceed as provided under the insurance laws of the District to take possession of the property of such a domestic insurer and to conduct its business, or take any other actions as the Mayor, at the Mayor's discretion, deems appropriate.

(Oct. 21, 1993, D.C. Law 10-44, § 13, 40 DCR 6027; May 21, 1997, D.C. Law 11-268, § 10(gg)(2), 44 DCR 1730.)

Section references. — This section is referenced in § 31-704.

Prior Codifications. — 1981 Ed., § 35-3711.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 11-268. — For legislative history of D.C. Law 11-268, see Historical and Statutory Notes following § 31-701.

Editor's notes. — Because of the codification of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in this section.

§ 31-712. Recovery.

(a) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under the order shall have a right to recover on behalf of the insurer, (i) from any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions (other than distributions of shares of the same class of stock) paid by the insurer on its capital stock, or (ii) any payment in the form of a bonus, termination settlement, or extraordinary lump sum salary adjustment made by the insurer or its subsidiary to a director, officer, or employee, where the distribution or payment pursuant to clause (i) or (ii) of this subsection is made at any time during the 1 year preceding the petition for liquidation, conservation, or rehabilitation, as the case may be, subject to the limitations of subsections (b), (c), and (d) of this section.

(b) No distribution shall be recoverable if the parent or affiliate shows that when paid the distribution was lawful and reasonable, and that the insurer did not know, and could not reasonably have known, that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c)(1) Any person that was a parent corporation, holding company, or a person who otherwise controlled the insurer or affiliate at the time the distributions were paid shall be liable, under subsection (a) of this section, up to the amount of distributions or payments such a person received.

(2) Any person that otherwise controlled the insurer at the time the distributions were declared shall be liable up to the amount of distributions the person would have received if they had been paid immediately.

(3) If 2 or more persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this section shall be the amount needed in excess of all other available assets of the impaired or

insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer and to reimburse any guaranty funds.

(e) To the extent that any person liable under subsection (c) of this section is insolvent or otherwise fails to pay claims due from it, its parent corporation, holding company, or person who otherwise controlled it at the time the distribution was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the parent corporation, holding company, or person who otherwise controlled it.

(Oct. 21, 1993, D.C. Law 10-44, § 14, 40 DCR 6027; July 25, 1995, D.C. Law 11-30, § 8, 42 DCR 1547.)

Prior Codifications. — 1981 Ed., § 35-3712.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Legislative history of Law 11-30. — Law 11-30, the “Technical Amendments Act of 1995,” was introduced in Council and assigned Bill

No. 11-58, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 7, 1995, and March 7, 1995, respectively. Signed by the Mayor on March 22, 1995, it was assigned Act No. 11-32 and transmitted to both Houses of Congress for its review. D.C. Law 11-30 became effective on July 25, 1995.

§ 31-713. Revocation, suspension, or nonrenewal of insurer’s license.

Whenever it appears to the Mayor that any person has committed a violation of this subchapter which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the Mayor may, after giving notice and an opportunity to be heard, suspend, revoke, or refuse to renew the insurer’s license or authority to do business in the District for such a period as the Mayor finds is required for the protection of policyholders or the public. Any determination shall be accompanied by specific findings of fact and conclusions of law.

(Oct. 21, 1993, D.C. Law 10-44, § 15, 40 DCR 6027.)

Prior Codifications. — 1981 Ed., § 35-3713.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Editor’s notes. — Because of the codifica-

tion of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, “subchapter” has been substituted for “chapter” in this section.

§ 31-714. Judicial review; mandamus.

(a) Any person aggrieved by any act, determination, rule, regulation, or order or any other action of the Mayor pursuant to this subchapter may appeal to the District of Columbia Court of Appeals, in accordance with § 2-510.

(b) The filing of an appeal pursuant to this section shall not stay the application of any such rule, regulation, order, or other action of the Mayor to the appealing party unless the court, after giving the appealing party notice and an opportunity to be heard, determines that failure to grant such a stay would be detrimental to the interest of policyholders, shareholders, creditors, or the public.

(c) Any person aggrieved by any failure of the Mayor to act or make a determination required by this subchapter may petition the Superior Court of the District of Columbia for a writ in the nature of a mandamus or a peremptory mandamus directing the Mayor to act or make such determination forthwith.

(Oct. 21, 1993, D.C. Law 10-44, § 16, 40 DCR 6027.)

Prior Codifications. — 1981 Ed., § 35-3714.

Legislative history of Law 10-44. — For legislative history of D.C. Law 10-44, see Historical and Statutory Notes following § 31-701.

Editor's notes. — Because of the codifica-

tion of D.C. Law 11-159 as subchapter II of Chapter 37 of Title 35 [subchapter II of Chapter 7 of Title 31, 2001 Ed.], and the designation of the preexisting text as subchapter I, "subchapter" has been substituted for "chapter" in (a) and (c).

CASE NOTES

ANALYSIS

Cross examination.
Jurisdiction.

Cross examination.

On review of agency decision approving business combination of health insurance carriers, petitioners, who initially asserted a right to cross-examination of witnesses by requesting that such procedure be followed, abandoned that asserted right by not objecting when a contrary procedure was announced and by remaining silent when Commissioner of Department of Insurance and Securities Regulation (DISR) asked if there were any more issues to be considered; petitioners' objection to lack of

cross-examination after record was closed was too late. D.C. Code 1981, § 35-3703(g)(2). *Fair Care Found. v. District of Columbia Dep't of Ins. & Sec. Regulation*, 716 A.2d 987, 1998 D.C. App. LEXIS 157 (1998).

Jurisdiction.

Court of Appeals had exclusive jurisdiction to review approval by Department of Insurance and Securities Regulation (DISR) of business combination of health insurance carriers, and therefore, Superior Court lacked jurisdiction of action seeking to enjoin the consummation of the approved business combination. D.C. Code 1981, § 1-1510. *Fair Care Found. v. District of Columbia Dep't of Ins. & Sec. Regulation*, 716 A.2d 987, 1998 D.C. App. LEXIS 157 (1998).

Subchapter II. Mutual Holding Companies.

§ 31-731. Formation of a mutual holding company.

(a) A domestic mutual insurance company, upon approval of the Commissioner, may reorganize by directly or indirectly forming an insurance holding company based upon a mutual plan. The reorganized insurance company shall continue, without interruption, its corporate existence as a stock insurance company subsidiary to the mutual insurance holding company or as a stock insurance company subsidiary to an intermediate holding company which is subsidiary to the mutual insurance holding company.

(b) The Commissioner, after a public hearing as provided in § 31-703(g)(1), if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, shall approve the proposed plan of reorganization and may require as a condition of approval such modifications of the proposed plan of reorganization as the Commissioner finds necessary for the protection of the policyholders' interests. The Commissioner may retain consultants as provided in § 31-703(g)(3). A reorganization pursuant to this section is subject to § 31-703(a), (b), and (c).

The Commissioner shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(c) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company.

(d) Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

(Sept. 20, 1996, D.C. Law 11-159, § 2, 43 DCR 3714; Mar. 24, 1998, D.C. Law 12-81, § 41(a), 45 DCR 745; Mar. 26, 1999, D.C. Law 12-188, § 2(a), 45 DCR 7807.)

Section references. — This section is referenced in § 31-734 and § 31-735.

Prior Codifications. — 1981 Ed., § 35-3721.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(a) of the Mutual Holding Company Mergers and Acquisition Temporary Amendment Act of 1998 (D.C. Law 12-119, June 11, 1998, law notification 45 DCR 4036).

Emergency legislation. — For temporary addition of §§ 35-3721 through 35-3728 1981 Ed., see § 2-9 of the Mutual Holding Company Emergency Act of 1996 (D.C. Act 11-288, July 1, 1996, 43 DCR 3707).

For temporary addition of §§ 35-3721 through 35-3728 1981 Ed., see § 2-9 of the Mutual Holding Company Congressional Review Emergency Act of 1996 (D.C. Act 11-368, August 21, 1996, 43 DCR 3721).

For temporary repeal of the Mutual Holding Company Emergency Act of 1996 (D.C. Act 11-288, July 1, 1996, 43 DCR 3707), see § 12 of the Mutual Holding Company Congressional Review Emergency Act of 1996 (D.C. Act 11-368, August 21, 1996, 43 DCR 4633).

For temporary amendment of section, see § 2(a) of the Mutual Holding Company Mergers and Acquisition Emergency Amendment Act of 1998 (D.C. Act 12-295, March 4, 1998, 45 DCR 1764), § 2(a) of the Mutual Holding Company Mergers and Acquisition Congressional Review Emergency Amendment Act of 1998

(D.C. Act 12-364, June 5, 1998, 45 DCR 3875), and § 2(a) of the Mutual Holding Company Mergers and Acquisition Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-550, December 18, 1998, 46 DCR 512).

Legislative history of Law 11-159. — Law 11-159, the “Mutual Holding Company Act of 1996,” was introduced in Council and assigned Bill No. 11-623, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on May 7, 1996, and June 4, 1996, respectively. Signed by the Mayor on June 21, 1996, it was assigned Act No. 11-290 and transmitted to both Houses of Congress for its review. D.C. Law 11-159 became effective on September 20, 1996.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-702.

Legislative history of Law 12-188. — Law 12-188, the “Mutual Holding Company Mergers and Acquisitions Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-541, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second reading on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 2, 1998, it was assigned Act No. 12-459, and transmitted to both Houses of Congress for review. D.C. Law 12-188 became effective on March 26, 1999.

§ 31-732. Merger of policyholder membership interests.

(a) A domestic mutual insurance company, upon the approval of the Commissioner, may reorganize by merging its policyholders’ membership interests

into a mutual insurance holding company formed pursuant to this section and continuing the corporate existence of the reorganizing insurance company as a stock insurance company or as a stock insurance company subsidiary to an intermediate holding company which is a subsidiary to the mutual insurance holding company.

(b) The Commissioner, after a public hearing as provided in § 31-703(g)(1), if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, shall approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the Commissioner finds necessary for the protection of the policyholders' interests. The Commissioner may retain consultants as provided in § 31-703(g)(3). A merger pursuant to this section is subject to § 31-703(a), (b), and (c). The Commissioner shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(c) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company. A merger of policyholders' membership interests in a mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to § 31-703 and § 31-703 is also applicable.

(Sept. 20, 1996, D.C. Law 11-159, § 3, 43 DCR 3714; Mar. 24, 1998, D.C. Law 12-81, § 41(b), 45 DCR 745.)

Section references. — This section is referenced in § 31-734 and § 31-735.

Prior Codifications. — 1981 Ed., § 35-3722.

Emergency legislation. — See notes to § 35-3721.

Legislative history of Law 11-159. — For legislative history of D.C. Law 11-159, see Historical and Statutory Notes following § 31-731.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-702.

§ 31-733. Incorporation of holding company; amendment of articles of incorporation.

(a) A mutual insurance holding company resulting from a reorganization of a domestic mutual insurance company organized under Chapter 44 of this title shall be incorporated pursuant to Chapter 44 of this title. The articles of incorporation and any amendments to such articles of the mutual insurance holding company shall be subject to approval of the Commissioner and Corporation Counsel of the District in the same manner as those of an insurance company. The Commissioner and Corporation Counsel shall promptly examine the articles of incorporation, and if they find that the articles of incorporation comply with the law, the Commissioner and Corpora-

tion Counsel shall endorse their approval upon each of the originals, place one on file in the Commissioner's office, and return the remaining sets to the incorporators. The incorporators shall promptly file such endorsed articles of incorporation with the D.C. Office of Corporations. The endorsed articles of incorporation shall be deemed effective as of the effective date of a reorganization accomplished pursuant to this act [this subchapter], upon the filing of the articles with the D.C. Office of Corporations.

(b) A domestic mutual insurance holding company may amend its articles of incorporation by vote of 2/3rds of those members who vote either in person or by proxy at a lawful meeting of its members, if the notice given members included due notice of the proposal to amend. Upon adoption of an amendment, the mutual holding company shall make under its corporate seal a certificate thereof, setting forth the amendment and the date and manner of the adoption thereof, which certificate shall be executed by the mutual insurance holding company's president or vice president and secretary or assistant secretary, and acknowledged before an officer authorized to take acknowledgments. The mutual insurance holding company shall deliver the originals of the certificate to the Commissioner and Corporation Counsel. The Commissioner and Corporation Counsel shall promptly examine the certificate of amendment, and, if the Commissioner and Corporation Counsel find that the certificate and the amendment comply with law, the Commissioner and Corporation Counsel shall endorse their approvals upon each of the originals, place one on file in the Commissioner's office, and return the remaining sets to the mutual insurance holding company. The mutual insurance holding company shall promptly file such endorsed certificates of amendment with the D.C. Office of Corporations. The D.C. Office of Corporations shall accept the endorsed certificates of amendment without further review or approval. The amendment shall be effective when filed with the D.C. Office of Corporations.

(Sept. 20, 1996, D.C. Law 11-159, § 4, 43 DCR 3714; Mar. 24, 1998, D.C. Law 12-81, § 41(c), 45 DCR 745; Mar. 26, 1999, D.C. Law 12-188, § 2(b), 45 DCR 7807.)

Prior Codifications. — 1981 Ed., § 35-3723.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(b) of the Mutual Holding Company Mergers and Acquisition Temporary Amendment Act of 1998 (D.C. Law 12-119, June 11, 1998, law notification 45 DCR 4036).

Emergency legislation. — See notes to § 35-3721.

For temporary amendment of section, see § 2(b) of the Mutual Holding Company Mergers and Acquisition Emergency Amendment Act of 1998 (D.C. Act 12-295, March 4, 1998, 45 DCR 1764), § 2(b) of the Mutual Holding Company Mergers and Acquisition Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-364, June 5, 1998, 45 DCR 3875), and § 2(b) of the Mutual Holding Company

Mergers and Acquisition Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-550, December 18, 1998, 46 DCR 512).

Legislative history of Law 11-158. — For legislative history of D.C. Law 11-158, see Historical and Statutory Notes following § 31-731.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-702.

Legislative history of Law 12-188. — Law 12-188, the "Mutual Holding Company Mergers and Acquisitions Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-541, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second reading on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 2, 1998, it was

assigned Act No. 12-459, and transmitted to both Houses of Congress for review. D.C. Law 12-188 became effective on March 26, 1999.

References in text. — “This act,” referred to in (a), is D.C. Law 12-188.

§ 31-734. Insurers rehabilitation and liquidation.

(a) A mutual insurance holding company is deemed to be an insurer subject to Chapter 13 of this title, and shall automatically be a party to any proceeding under Chapter 13 of this title involving an insurance company, which as a result of a reorganization pursuant to § 31-731 or § 31-732 is a subsidiary of the mutual insurance holding company. In any proceeding under Chapter 13 of this title involving the reorganized insurance company, the assets of the mutual insurance holding company are deemed to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders.

(b) A mutual insurance holding company shall not dissolve or liquidate without the approval of the Commissioner or as ordered by the District Court pursuant to Chapter 13 of this title.

(Sept. 20, 1996, D.C. Law 11-159, § 5, 43 DCR 3714; Mar. 24, 1998, D.C. Law 12-81, § 41(d), 45 DCR 745.)

Prior Codifications. — 1981 Ed., § 35-3724.

Emergency legislation. — See notes to § 35-3721.

Legislative history of Law 11-159. — For

legislative history of D.C. Law 11-159, see Historical and Statutory Notes following § 31-731.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-702.

§ 31-735. Applicability; membership interest; powers.

(a) Section 19 of the Life Insurance Act is not applicable to a reorganization or merger pursuant to this section.

(b) A membership interest in a domestic mutual insurance holding company shall not constitute a security as defined in § 31-603.

(c) A mutual holding company created under this subchapter shall have the same powers to borrow or assume liability as a mutual insurance company organized under the provisions of District law.

(d) The requirement of § 31-4421 that every director of a stock company organized under Chapter 44 of this title shall be a stockholder thereof is not applicable to a mutual insurance holding company, any intermediate insurance holding company, or any reorganized insurance company established pursuant to this subchapter. Every director of a mutual insurance holding company, any intermediate holding company, and any reorganized insurance company shall be a policyholder of the reorganized insurance company, having purchased a policy in a manner that shall not unfairly discriminate in favor of such director, either before or after the reorganization pursuant to § 31-731 or § 31-732.

(e)(1) A mutual insurance holding company shall not be authorized to pay dividends or make distributions to any mutual insurance holding company member except as may be expressly provided by the Commissioner.

(2) Neither the adoption nor the implementation of a plan of reorganiza-

tion, or a plan of merger or other affiliation, involving a mutual insurance holding company, shall be deemed to give rise to any obligation by or on behalf of a mutual insurance company or a mutual insurance holding company to make any distribution or payment to any member or policyholder, or to any other person, fund, or entity of any nature whatsoever, in connection with the ownership, control, benefits, policies, purpose, or nature of a mutual insurance company or a mutual insurance holding company, or otherwise, except as expressly provided in a plan of reorganization, a plan of merger or other affiliation involving a mutual insurance holding company, or as expressly approved by the Commissioner.

(f) A mutual insurance holding company created under this subchapter shall exercise any other power or engage in any activity permitted to a mutual insurance company organized under District laws.

(Sept. 20, 1996, D.C. Law 11-159, § 6, 43 DCR 3714; Mar. 26, 1999, D.C. Law 12-188, § 2(c), 45 DCR 7807.)

Cross references. — Life Insurance Act, see § 31-4201.

Prior Codifications. — 1981 Ed., § 35-3725.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(c) of the Mutual Holding Company Mergers and Acquisition Temporary Amendment Act of 1998 (D.C. Law 12-119, June 11, 1998, law notification 45 DCR 4036).

Emergency legislation. — See notes to § 35-3721.

For temporary amendment of section, see § 2(c) of the Mutual Holding Company Mergers and Acquisition Emergency Amendment Act of 1998 (D.C. Act 12-295, March 4, 1998, 45 DCR 1764), § 2(c) of the Mutual Holding Company Mergers and Acquisition Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-364, June 5, 1998, 45 DCR 3876), and § 2(c) of the Mutual Holding Company Mergers and Acquisition Second Congressional Review

Emergency Amendment Act of 1998 (D.C. Act 12-550, December 18, 1998, 46 DCR 512).

Legislative history of Law 11-159. — For legislative history of D.C. Law 11-159, see Historical and Statutory Notes following § 31-731.

Legislative history of Law 12-188. — Law 12-188, the “Mutual Holding Company Mergers and Acquisitions Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-541, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second reading on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 2, 1998, it was assigned Act No. 12-459, and transmitted to both Houses of Congress for review. D.C. Law 12-188 became effective on March 26, 1999.

References in text. — “Section 19 of the Life Insurance Act,” which is referred to in (a), is probably a reference to former § 35-418 [§ 31-4318, 2001 Ed.]; it may also be a reference to § 31-4419.

§ 31-736. Failure to give notice.

If the mutual company complies substantially and in good faith with the notice requirements of this subchapter, the mutual company's failure to give any member or members any required notice does not impair the validity of any action taken under this subchapter.

(Sept. 20, 1996, D.C. Law 11-159, § 7, 43 DCR 3714.)

Prior Codifications. — 1981 Ed., § 35-3726.

Emergency legislation. — See notes to § 35-3721.

Legislative history of Law 11-159. — For legislative history of D.C. Law 11-159, see Historical and Statutory Notes following § 31-731.

§ 31-737. Limitations of actions.

Any action challenging the validity of or arising out of acts taken or proposed to be taken under this subchapter shall be commenced within 30 days after the date of the issuance of any order by the Commissioner pursuant to this subchapter. In any action challenging the validity of or arising out of acts taken or proposed to be taken under this subchapter, or charging that the directors of the mutual insurance holding company or any of its subsidiaries have acted improperly in connection with any aspect of the acts taken or proposed to be taken under this subchapter, the mutual insurance holding company or any of its subsidiaries in whose right such action is brought, or the defendant(s) shall be entitled at any state of the proceedings before final judgment to require the plaintiff(s) to give security for the reasonable expenses, including attorney fees, which may be incurred by the mutual insurance holding company or any of its subsidiaries or any other defendant(s) in connection with such action. Thereafter, the amount of such security, from time to time, may be increased or decreased in the discretion of the court having jurisdiction of such action upon a showing that the security provided has or may become inadequate or excessive.

(Sept. 20, 1996, D.C. Law 11-159, § 8, 43 DCR 3714; Apr. 9, 1997, D.C. Law 11-202, § 4, 43 DCR 6054; Mar. 26, 1999, D.C. Law 12-188, § 2(d), 45 DCR 7807.)

Prior Codifications. — 1981 Ed., § 35-3727.

Temporary Amendment of Section. — For temporary (225 day) amendment of section, see § 2(d) of the Mutual Holding Company Mergers and Acquisition Temporary Amendment Act of 1998 (D.C. Law 12-119, June 11, 1998, law notification 45 DCR 4036).

Emergency legislation. — See notes to § 35-3721.

For temporary amendment of section, see § 2 of the Mutual Holding Company Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-449, December 10, 1996, 43 DCR 6866), and § 2 of the Mutual Holding Company Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-6, March 3, 1997, 44 DCR 1619).

For temporary amendment of § 8 of the Mutual Holding Company Act of 1996 (D.C. Act 11-290) to conform with this section, see § 11 of the Mutual Holding Company Congressional Review Emergency Act of 1996 (D.C. Act 11-368, August 21, 1996, 43 DCR 4633).

For temporary amendment of section, see § 2 of the Mutual Holding Company Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-449, December 10, 1996, 43 DCR 6866), and § 2 of the Mutual Holding Company Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-6, March 3, 1997, 44 DCR 1619).

For temporary amendment of section, see § 2(d) of the Mutual Holding Company Mergers and Acquisition Emergency Amendment Act of 1998 (D.C. Act 12-295, March 4, 1998, 45 DCR 1764), § 2(d) of the Mutual Holding Company Mergers and Acquisition Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-364, June 5, 1998, 45 DCR 3877), and § 2(d) of the Mutual Holding Company Mergers and Acquisition Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-550, December 18, 1998, 46 DCR 512).

Legislative history of Law 11-202. — Law 11-202, the “Medicare Supplement Insurance Minimum Standards Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-627. The Bill was adopted on first and second readings on July 3, 1996, and July 17, 1996, respectively. Signed by the Mayor on August 5, 1996, it was assigned Act No. 11-367 and transmitted to both Houses of Congress for its review. D.C. Law 11-202 became effective on April 9, 1997.

Legislative history of Law 12-188. — Law 12-188, the “Mutual Holding Company Mergers and Acquisitions Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-541, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second reading on July 7, 1998, and September 22, 1998, respectively.

Signed by the Mayor on October 2, 1998, it was assigned Act No. 12-459, and transmitted to both Houses of Congress for review. D.C. Law 12-188 became effective on March 26, 1999.

§ 31-737.01. Mergers and acquisitions.

(a) Subject to applicable requirements of this subchapter and subchapter I of this chapter, a mutual insurance holding company may:

(1) Merge or consolidate with, or acquire the assets of, a mutual insurance holding company licensed pursuant to this subchapter or any similar entity organized pursuant to laws of any other state;

(2) Either alone or together with one or more intermediate stock holding companies, or other subsidiaries, directly or indirectly acquire the stock of a stock insurance company or a mutual insurance company that reorganizes under this subchapter or the law of its state of organization;

(3) Together with one or more of its stock insurance company subsidiaries, acquire the assets of a stock insurance company or a mutual insurance company;

(4) Acquire a stock insurance company through the merger of such stock insurance company with a stock insurance company or interim stock insurance company subsidiary of the mutual insurance holding company; or

(5) Acquire the stock or assets of any other person to the same extent as would be permitted for any District stock corporation or, if the mutual insurance holding company writes insurance, a mutual insurance company.

(b) A merger or acquisition pursuant to this section is subject to the applicable procedures prescribed by the District laws applying to mutual insurance companies, except as otherwise provided in this subsection. The Commissioner may retain, at the expense of the mutual insurance company, any attorneys, actuaries, accountants, and other experts not otherwise a part of the Commissioner's staff as may be reasonably necessary to assist the Commissioner in reviewing the proposed merger or acquisition.

(1) The plan and agreement for merger shall be submitted to and approved by vote of 2/3rds of those members of any domestic mutual insurance holding company involved in the merger who vote either in person or by proxy thereon at a lawful meeting called for the purpose pursuant to such reasonable notice and procedure as has been approved by the Commissioner.

(2) No such merger shall be effectuated unless in advance thereof, the plan and agreement therefor have been filed with the Commissioner and approved by him. The Commissioner shall give such approval unless he finds such plan or agreement:

(A) Is inequitable to the policyholders of any domestic insurer involved in the merger or the members of any domestic mutual insurance holding company involved in the merger; or

(B) Would substantially reduce the security of and service to be rendered to policyholders of a domestic insurer in the District.

(September 20, 1996, D.C. Law 11-159, § 8a, as added Mar. 26, 1999, D.C. Law 12-188, § 2(e), 45 DCR 7807.)

Prior Codifications. — 1981 Ed., § 35-3727.1.

Temporary Addition of Section. — For temporary (225 day) addition, see § 2(e) of the Mutual Holding Company Mergers and Acquisition Temporary Amendment Act of 1998 (D.C. Law 12-119, June 11, 1998, law notification 45 DCR 4036).

Emergency legislation. — For temporary addition of section, see § 2(e) of the Mutual Holding Company Mergers and Acquisition Emergency Amendment Act of 1998 (D.C. Act 12-295, March 4, 1998, 45 DCR 1764), § 2(e) of the Mutual Holding Company Mergers and Acquisition Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-364, June 5, 1998, 45 DCR 3877), and § 2(e) of the Mu-

tual Holding Company Mergers and Acquisition Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-550, December 18, 1998, 46 DCR 512).

Legislative history of Law 12-188. — Law 12-188, the “Mutual Holding Company Mergers and Acquisitions Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-541, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second reading on July 7, 1998, and September 22, 1998, respectively. Signed by the Mayor on October 2, 1998, it was assigned Act No. 12-459, and transmitted to both Houses of Congress for review. D.C. Law 12-188 became effective on March 26, 1999.

§ 31-738. Rulemaking.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules and regulations to implement the provisions of this subchapter.

(Sept. 20, 1996, D.C. Law 11-159, § 9, 43 DCR 3714.)

Prior Codifications. — 1981 Ed., § 35-3728.

Emergency legislation. — See notes to § 35-3721.

Legislative history of Law 11-159. — For legislative history of D.C. Law 11-159, see Historical and Statutory Notes following § 31-731.

Subchapter III. Reciprocal Insurance Company Conversion.

§ 31-751. Definitions.

For the purposes of this subchapter, the term:

(1) “Reciprocal insurance company” includes an interinsurance exchange but shall not include a risk retention group as defined in § 31-4101(12).

(2) “Voting shares” means shares entitling the holder to vote for the election of directors of the issuer except that shares which can be voted only in the case of the occurrence of an event or an extraordinary action are not voting shares.

(May 12, 1998, D.C. Law 12-112, § 2, 45 DCR 1792.)

Prior Codifications. — 1981 Ed., § 35-3741.

Emergency legislation. — For temporary addition of this subchapter, comprised of §§ 35-3741 through 35-3750 1981 Ed. see §§ 2-11 of the Reciprocal Insurance Company Conversion Emergency Amendment Act of 1998 (D.C. Act 12-298, March 4, 1998, 45 DCR 1775).

Legislative history of Law 12-112. — Law 12-112, the “Reciprocal Insurance Company

Conversion Act of 1998,” was introduced in Council and assigned Bill No. 12-445. The Bill was adopted on first and second readings on January 6, 1998, and February 3, 1998, respectively. Signed by the Mayor on February 24, 1998, it was assigned Act No. 12-301 and transmitted to both Houses of Congress for its review. D.C. Law 12-112 became effective on May 12, 1998.

§ 31-752. Formation of a mutual insurance holding company from a reciprocal insurance company.

(a) Upon approval of the Commissioner, a domestic reciprocal insurance company may form a mutual insurance holding company that directly or indirectly owns the insurance company, based upon a conversion plan. The reorganized insurance company shall continue, without interruption, its existence as a stock insurance company subsidiary of the mutual insurance holding company or as a stock insurance company subsidiary to an intermediate holding company which is a subsidiary of the mutual insurance holding company.

(b) The Commissioner, after a public hearing as provided in § 31-703(g)(1), if satisfied that the interests of the policyholders are properly protected and that the conversion plan is fair and equitable to the policyholders, shall approve the proposed conversion plan and may require as a condition of approval such modifications of the proposed conversion plan as the Commissioner finds necessary for the protection of the policyholders' interests. The Commissioner may retain consultants as provided in § 31-703(g)(3). A conversion pursuant to this section shall be subject to § 31-703(a), (b), and (c). The Commissioner shall retain jurisdiction over a mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(c) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company.

(d) Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times own a majority of the voting shares of the capital stock of the reorganized insurance company.

(May 12, 1998, D.C. Law 12-112, § 3, 45 DCR 1792.)

Prior Codifications. — 1981 Ed., § 35-3742.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-753. Merger of policyholder membership interests.

(a) Upon approval of the Commissioner, a domestic or foreign reciprocal or mutual insurance company may merge its policyholders' membership interests into a mutual insurance holding company formed pursuant to this section and continue, without interruption, the existence of the insurance company as a stock insurance company subsidiary of the mutual insurance holding company or as a stock insurance company subsidiary of an intermediate holding company which is a subsidiary of the mutual insurance holding company.

(b) The Commissioner, after a public hearing as provided in § 31-703(g)(1), if satisfied that the interests of the policyholders are properly protected and that the merger is fair and equitable to the policyholders, shall approve the proposed merger and may require as a condition of approval such modifications of the proposed merger as the Commissioner finds necessary for the protection of the policyholders' interests. The Commissioner may retain consultants as provided in § 31-703(g)(3). A merger pursuant to this section shall be subject to § 31-703(a), (b), and (c). The Commissioner shall retain jurisdiction over the mutual insurance holding company organized pursuant to this section to assure that policyholder interests are protected.

(c) All of the initial shares of the capital stock of the reorganized insurance company shall be issued to the mutual insurance holding company. The membership interests of the policyholders of the reorganized insurance company shall become membership interests in the mutual insurance holding company.

(d) Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall at all times directly or indirectly own a majority of the voting shares of the capital stock of the reorganized insurance company. A merger of policyholders' membership interests in a reciprocal or mutual insurance company into a mutual insurance holding company shall be deemed to be a merger of insurance companies pursuant to § 31-703 which shall be applicable.

(May 12, 1998, D.C. Law 12-112, § 4, 45 DCR 1793.)

Prior Codifications. — 1981 Ed., § 35-3743.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-754. Incorporation of holding company.

A mutual insurance holding company resulting from a conversion of a domestic reciprocal insurance company shall be incorporated pursuant to Chapter 3 of Title 29 and shall be subject to Chapters 1, 2, and 3 of Title 29 to the extent that those provisions are not in conflict with this subchapter. The articles of incorporation and any amendments to such articles of incorporation of the mutual insurance holding company shall be subject to approval of the Commissioner and Corporation Counsel of the District in the same manner as those of an insurance company.

(May 12, 1998, D.C. Law 12-112, § 5, 45 DCR 1794; July 2, 2011, D.C. Law 18-378, § 3(u), 58 DCR 1720.)

Prior Codifications. — 1981 Ed., § 35-3744.

Effect of amendments. — D.C. Law 18-378 substituted "Chapter 3 of Title 29 and shall be subject to Chapters 1, 2, and 3 of Title 29" for

"Chapter 1 of Title 29 ('Business Corporation Act'), and shall be subject to the provisions of the Business Corporation Act".

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

Legislative history of Law 18-378. — Law 18-378, the “District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2009”, was introduced in Council and assigned Bill No. 18-500, which was referred to

the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on February 27, 2011, it was assigned Act No. 18-724 and transmitted to both Houses of Congress for its review. D.C. Law 18-378 became effective on July 2, 2011.

§ 31-755. Insurers rehabilitation and liquidation.

(a) A mutual insurance holding company shall be deemed to be an insurer subject to Chapter 13 of this title (“Insurers Rehabilitation and Liquidation Act”), and shall automatically be a party to any proceeding under the Insurers Rehabilitation and Liquidation Act involving an insurance company, which as a result of a conversion or merger pursuant to § 31-702 or § 31-703 is directly or indirectly a subsidiary of the mutual insurance holding company. In any proceeding under the Insurers Rehabilitation and Liquidation Act involving the converted or merged insurance company, the assets of the mutual insurance holding company shall be deemed to be assets of the estate of the converted or merged insurance company for purposes of satisfying the claims of the converted or merged insurance company’s policyholders.

(b) A mutual insurance holding company shall not dissolve or liquidate without the approval of the Commissioner or as ordered by a District of Columbia court pursuant to the Insurers Rehabilitation and Liquidation Act.

(May 12, 1998, D.C. Law 12-112, § 6, 45 DCR 1794.)

Prior Codifications. — 1981 Ed., § 35-3745.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-756. Applicability; membership interest; powers.

(a) A membership interest in a mutual insurance holding company shall not constitute an equity security as defined in § 31-603.

(b) A mutual insurance holding company created under this subchapter shall have the same powers to borrow or assume liability as a reciprocal insurance company organized under District law.

(May 12, 1998, D.C. Law 12-112, § 7, 45 DCR 1794.)

Prior Codifications. — 1981 Ed., § 35-3746.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-757. Failure to give notice.

If the reciprocal insurance company complies substantially and in good faith with the notice requirements of this subchapter, the reciprocal insurance company’s failure to give any member or members any required notice shall not impair the validity of any action taken under this subchapter.

(May 12, 1998, D.C. Law 12-112, § 8, 45 DCR 1795.)

Prior Codifications. — 1981 Ed., § 35-3747.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-758. Limitations of actions.

Any action challenging the validity of, or arising out of acts taken or proposed to be taken under, this subchapter shall be commenced within 30 days after the effective date of any plan submitted for approval pursuant to this subchapter.

(May 12, 1998, D.C. Law 12-112, § 9, 45 DCR 1795.)

Prior Codifications. — 1981 Ed., § 35-3748.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-759. Conversion of mutual insurance holding company.

Chapter 9 of this title shall be applicable to the conversion of a mutual insurance holding company formed under this subchapter to a stock company as if the mutual insurance holding company were a mutual insurance company.

(May 12, 1998, D.C. Law 12-112, § 10, 45 DCR 1795.)

Prior Codifications. — 1981 Ed., § 35-3749.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

§ 31-760. Rulemaking.

The Mayor, pursuant to subchapter I of Chapter 5 of Title 2 may issue rules and regulations to implement the provisions of this subchapter.

(May 12, 1998, D.C. Law 12-112, § 11, 45 DCR 1795.)

Prior Codifications. — 1981 Ed., § 35-3750.

Emergency legislation. — See Historical and Statutory Notes following § 31-751.

Legislative history of Law 12-112. — For legislative history of D.C. Law 12-112, see Historical and Statutory Notes following § 31-751.

CHAPTER 8. INSURANCE AGENTS AND BROKERS LICENSING.

Sec.

31-801 to 31-814. [Repealed].

§ 31-801. Definitions. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 2, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1321.

Legislative history of Law 11-227. — Law 11-227, the “Insurance Agents and Brokers Licensing Revision Act of 1996,” was introduced in Council and assigned Bill No. 11-523, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on October 1, 1996, and November 7, 1996, respectively. Signed by the Mayor on December 4, 1996, it was assigned Act No. 11-455 and transmitted to both Houses of Congress for its review. D.C. Law 11-227 became effective on April 9, 1997.

Legislative history of Law 14-264. — Law 14-264, the “Producer Licensing Act of 2002”, was introduced in Council and assigned Bill No. 14-223, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 7, 2002, and December 3, 2002, respectively. Signed by the Mayor on December 23, 2002, it was assigned Act No. 14-561 and transmitted to both Houses of Congress for its review. D.C. Law 14-264 became effective on March 27, 2003.

§ 31-802. Duties of agents and brokers. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 3, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1322.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-803. General license requirements. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 4, 44 DCR 140; Oct. 21, 2000, D.C. Law 13-188, § 2(a), 47 DCR 7075; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1323.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 13-188. — Law 13-188, the “Insurance Agents and Brokers Licensing Revision Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-655, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-404 and transmitted to both Houses of Congress for its review. D.C. Law 13-188 became effective on October 21, 2000.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-804. Licensing procedure. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 5, 44 DCR 140; Oct. 21, 2000, D.C. Law 13-188, § 2(b), 47 DCR 7075; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1324.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 13-188. — For Law 13-188, see notes following § 31-803.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-805. Exemption from examination and preclicensing education requirements. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 6, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1325.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-806. License denial, nonrenewal, or termination. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 7, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1326.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-807. License continuation; expiration. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 8, 44 DCR 140; Oct. 21, 2000, D.C. Law 13-188, § 2(c), 47 DCR 7075; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1327.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 13-188. — For Law 13-188, see notes following § 31-803.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-808. Hearings. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 9, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1328.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-809. Surrender of license; loss or destruction of license. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 10, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1329.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-810. Termination reports. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 11, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1330.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-811. Representatives of fraternal benefit societies. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 12, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1331.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-812. Countersignature and related laws. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 13, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1332.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-813. Temporary licensing. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 14, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1333.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

§ 31-814. Rules and regulations. [Repealed].

Repealed.

(Apr. 9, 1997, D.C. Law 11-227, § 15, 44 DCR 140; Mar. 27, 2003, D.C. Law 14-264, § 20, 50 DCR 260.)

Prior Codifications. — 1981 Ed., § 35-1334.

Legislative history of Law 11-227. — For legislative history of D.C. Law 11-227, see Historical and Statutory Notes following § 31-801.

Legislative history of Law 14-264. — For Law 14-264, see notes following § 31-801.

CHAPTER 8A. INSURANCE COMPLIANCE SELF-EVALUATION PRIVILEGE.

Sec.

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§ 31-851. Definitions.

For the purposes of this chapter, the term:

(1) "Commissioner" means the Commissioner of Insurance and Securities Regulation [Commissioner of the Department of Insurance, Securities, and Banking].

(2) "Company" means all insurance companies or carriers that are licensed in the District and subject to the regulatory authority of the Commissioner.

(3) "District" means the District of Columbia.

(4) "Insurance compliance audit" means a voluntary internal evaluation, review, assessment, or audit by a company not otherwise expressly required by law. An insurance compliance audit may be conducted by the company, its employees, or by independent contractors.

(5)(A) "Insurance compliance self-evaluative audit document" means a document prepared as a result of or in connection with, and not prior to, an insurance compliance audit. An insurance compliance self-evaluation audit document may include:

(i) A written response to the findings of an insurance compliance audit;

(ii) Field notes and records of observations, findings, opinions, suggestions, conclusions, drafts, memoranda, drawings, photographs, exhibits, computer-generated or electronically recorded information, maps, charts, graphs, and surveys; provided, that this supporting information is collected or developed for the primary purpose of, and in connection with, an insurance compliance audit;

(iii) An insurance compliance audit report prepared by an auditor who may be an employee of the company or an independent contractor, which report may include the scope of the audit, information produced by the audit, and conclusions and recommendations, with exhibits and appendices;

(iv) Memoranda and documents analyzing portions or all of the insurance compliance audit report and discussing potential implementation issues;

(v) An implementation plan that addresses correcting past noncompliance, improving current compliance, and preventing future noncompliance; or

(vi) Analytic data generated in the course of conducting the insurance compliance audit.

(B) "Insurance compliance self-evaluative audit document" shall not include documents, communications, data, reports, or other information created as a result of a claim involving personal injury or workers' compensation made against an insurance policy.

(6) “Privilege” means the insurance compliance self-evaluative privilege created by § 31-853(a).

(Apr. 11, 2003, D.C. Law 14-293, § 2, 50 DCR 296.)

Legislative history of Law 14-293. — Law 14-293, the “Insurance Compliance Self-Evaluation Privilege Act of 2002”, was introduced in Council and assigned Bill No. 14-158, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted

on first and second readings on November 7, 2002, and December 3, 2002, respectively. Signed by the Mayor on December 23, 2002, it was assigned Act No. 14-568 and transmitted to both Houses of Congress for its review. D.C. Law 14-293 became effective on April 11, 2003.

§ 31-852. Scope.

Nothing in this chapter shall limit, waive, or abrogate the scope or nature of any statutory or common law privilege, including work product, the attorney-client privilege, or the subsequent remedial measures exclusion.

(Apr. 11, 2003, D.C. Law 14-293, § 3, 50 DCR 296.)

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

§ 31-853. Privilege.

(a)(1) An insurance compliance self-evaluative audit document shall be privileged information and shall not be admissible as evidence in any legal action in a civil, criminal, or administrative proceeding, except as provided in subsections (b), (c), and (d) of this section and §§ 31-854 and 31-855.

(2) The privilege shall not extend to:

(A) Documents, communications, data, reports, or other information required to be collected, developed, maintained, reported, or otherwise made available to a regulatory agency under a District or federal law, rule, or order;

(B) Information obtained by observation or monitoring by any regulatory agency; or

(C) Information obtained from a source independent of the insurance compliance audit.

(b) If, in connection with examinations conducted under the insurance laws, a company voluntarily submits an insurance compliance self-evaluative audit document to the Commissioner, as delegate of the Mayor, as a confidential document, the provisions of § 31-1403(f) shall not apply to the insurance compliance self-evaluative audit document so voluntarily submitted.

(c) To the extent that the Commissioner has the authority to compel the disclosure of an insurance compliance self-evaluative audit document under other provisions of applicable law, the document furnished to the Commissioner shall not be provided to any other persons or entities and shall be accorded the same confidentiality and other protections as provided above for voluntarily submitted documents. Any use of an insurance compliance self-evaluative audit document furnished as a result of a request by the Commissioner under a claim of authority to compel disclosure shall be limited to determining whether or not any disclosed defects in an insurer’s policies and

procedures or inappropriate treatment of customers has been remedied or that an appropriate plan for their remedy is in place.

(d) The privilege shall not apply to the extent that it is expressly waived by the company that prepared, or caused to be prepared, the insurance compliance self-evaluative audit document.

(Apr. 11, 2003, D.C. Law 14-293, § 4, 50 DCR 296.)

Section references. — This section is referenced in § 31-851.

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

§ 31-854. Civil or administrative proceedings.

A court may, after an in camera review, require disclosure of material for which the privilege is asserted if the court determines:

- (1) The privilege is asserted for fraudulent purposes;
- (2) The material is not subject to the privilege; or
- (3) Even if subject to the privilege, the material shows evidence of noncompliance with District or federal statutes, rules, or orders and the company failed to take reasonable corrective action or eliminate the noncompliance within a reasonable time.

(Apr. 11, 2003, D.C. Law 14-293, § 5, 50 DCR 296.)

Section references. — This section is referenced in § 31-853, § 31-856, and § 31-857.

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

§ 31-855. Criminal proceedings.

A court may, after an in camera review, require disclosure of material for which the privilege is asserted, if the court determines:

- (1) The privilege is asserted for a fraudulent purpose;
- (2) The material is not subject to the privilege;
- (3) Even if subject to the privilege, the material shows evidence of noncompliance with District or federal statutes, rules, or orders and the company failed to undertake reasonable corrective action or eliminate the noncompliance within a reasonable time; or
- (4) The material contains evidence relevant to the commission of a criminal offense under District law, and:
 - (A) The Commissioner, Corporation Counsel, or U.S. Attorney has a compelling need for the information;
 - (B) The information is not otherwise available; and
 - (C) The Commissioner, Corporation Counsel, or U.S. Attorney is unable to obtain the substantial equivalent of the information by any means without incurring unreasonable cost and delay.

(Apr. 11, 2003, D.C. Law 14-293, § 6, 50 DCR 296.)

Section references. — This section is referenced in § 31-853, § 31-856, and § 31-857.

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

§ 31-856. Requests for disclosure.

(a) The Commissioner, Corporation Counsel, or U.S. Attorney may request, in writing by certified mail, disclosure of an insurance compliance self-evaluative audit document within 30 days after the service of the request. The company that prepared the document or caused the document to be prepared may file with the appropriate court a petition requesting an in camera hearing to determine whether the insurance compliance self-evaluative audit document or portions of the document are privileged or subject to disclosure. Failure by the company to file a petition waives the privilege for that particular document. A company asserting the insurance compliance self-evaluative privilege in response to a request for disclosure under this subsection shall include in its request the information set forth in subsection (d) of this section.

(b) Upon the filing of a petition under this section, the court shall issue an order scheduling, within 45 days after the filing of the petition, an in camera hearing to determine whether the insurance compliance self-evaluative audit document or portions of the document are privileged or subject to disclosure.

(c) The court, after an in camera review, may require disclosure of material for which the privilege is asserted in accordance with § 31-854 or § 31-855. The court shall compel only the disclosure of those portions of an insurance compliance self-evaluative audit document relevant to issues in dispute in the underlying proceeding. A compelled disclosure shall not be considered to be a public document or be deemed to be a waiver of the privilege for any other civil, criminal, or administrative proceeding. A company unsuccessfully opposing disclosure may apply to the court for an order protecting the document from further disclosure.

(d) A company asserting the privilege in response to a request for disclosure under this section shall provide to the Commissioner, Corporation Counsel, or U.S. Attorney, as the case may be, at the time of filing any objection to the disclosure that:

(A) The date and time that the insurance compliance self-evaluative audit document was prepared;

(B) The identity of the entity conducting the audit;

(C) The general nature of the activities covered by the insurance compliance audit; and

(D) An identification of the portions of the insurance compliance self-evaluative audit document for which the privilege is being asserted.

(Apr. 11, 2003, D.C. Law 14-293, § 7, 50 DCR 296.)

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

§ 31-857. Burden of proof.

(a) A company asserting the privilege shall have the burden of demonstrating the applicability of the privilege. If a company has established the applicability of the privilege, a party seeking disclosure under § 31-854 shall have the burden of proving that the privilege is asserted for a fraudulent

purpose or that the company failed to undertake reasonable corrective action or eliminate the noncompliance within a reasonable time. The Commissioner, Corporation Counsel, or U. S. Attorney seeking disclosure under § 31-855 shall have the burden of proof.

(b) The parties may at any time agree to entry of an order directing that specific information contained in an insurance compliance self-evaluative audit document be disclosed.

(Apr. 11, 2003, D.C. Law 14-293, § 8, 50 DCR 296.)

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

§ 31-858. Applicability.

The privilege shall apply to all litigation or administrative proceedings pending on April 11, 2003, or filed subsequent to April 11, 2003.

(Apr. 11, 2003, D.C. Law 14-293, § 9, 50 DCR 296.)

Legislative history of Law 14-293. — For Law 14-293, see notes following § 31-851.

CHAPTER 9. INSURANCE DEMUTUALIZATION.

Sec.	Sec.
31-901. Definitions.	31-907. Optional provisions in a plan of conversion.
31-902. Adoption of the plan of conversion by the board of directors.	31-908. Alternative plan of conversion.
31-903. Approval of the plan of conversion by the Commissioner of the Department of Insurance, Securities, and Banking.	31-909. Effective date of the plan.
31-904. Approval of the plan by the members.	31-910. Rights of members whose policies are issued after adoption of the plan and before its effective date.
31-905. Adoption of revised articles of incorporation.	31-911. Corporate existence.
31-905.01. Acquiring, offering securities issued in connection with a plan of conversion.	31-912. Conflict of interest.
31-906. Required provisions in a plan of conversion.	31-913. Costs and expenses.
	31-914. Failure to give notice.
	31-915. Limitation of actions.

§ 31-901. Definitions.

For the purposes of this chapter, the term:

(1) “Converted stock company” means a District of Columbia domiciled stock company that converted from a District of Columbia mutual company pursuant to this chapter.

(1A) “Commissioner” means the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking].

(2) “District” means the District of Columbia.

(3) “Eligible member” means a member whose policy is in force as of the date the mutual company’s board of directors adopts a plan of conversion.

(A) A person insured under a group policy is not an eligible member, unless:

(i) The person is insured or covered under a group life policy or group annuity contract under which funds are accumulated and allocated to the respective covered person;

(ii) The person has the right to direct the application of the funds so allocated;

(iii) The group policyholder makes no contribution to the premiums or deposits for the policy or contract; and

(iv) The mutual company has the names and addresses covered under the group policy or group annuity contract.

(B) A person whose policy is issued after the board of directors adopts the plan but before the plan’s effective date is not an eligible member, but shall have those rights set forth in § 31-910.

(4) “Plan of conversion” or “plan” means a plan adopted by a District of Columbia domestic mutual company’s board of directors pursuant to this chapter to convert the mutual company into a District of Columbia domiciled stock company.

(5) “Policy” includes an annuity contract.

(6) Repealed.

(May 24, 1996, D.C. Law 11-126, § 2, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(a), 45 DCR 745.)

Prior Codifications. — 1981 Ed., § 35-4201.

Legislative history of Law 11-126. — Law 11-126, the “Insurance Demutualization Act of 1996,” was introduced in Council and assigned Bill No. 11-389, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 6, 1996, and March 5, 1996, respectively. Signed by the Mayor on March 15, 1996, it was assigned Act No. 11-233 and transmitted to both Houses of Congress for its review. D.C. Law 11-126 became effective on May 24, 1996.

Legislative history of Law 12-81. — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

§ 31-902. Adoption of the plan of conversion by the board of directors.

(a) A mutual company seeking to convert to a stock company shall, by the affirmative vote of a majority of its board of directors, adopt a plan of conversion consistent with the requirements of § 31-906.

(b) At any time before approval of a plan by the Commissioner, the mutual company, by the affirmative vote of a majority of its board of directors, may amend or withdraw the plan.

(May 24, 1996, D.C. Law 11-126, § 3, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(b), 45 DCR 745; Apr. 3, 2001, D.C. Law 13-214, § 2(a), 47 DCR 9580.)

Prior Codifications. — 1981 Ed., § 35-4202.

Effect of amendments. — D.C. Law 13-214 substituted “a majority” for “ $\frac{2}{3}$ ” in subsecs. (a) and (b).

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — Law

13-214, the “Insurance Demutualization Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-710, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 26, 2000, and October 3, 2000, respectively. Signed by the Mayor on October 30, 2000, it was assigned Act No. 13-466 and transmitted to both Houses of Congress for its review. D.C. Law 13-214 became effective on April 3, 2001.

§ 31-903. Approval of the plan of conversion by the Commissioner of the Department of Insurance, Securities, and Banking.

(a) After adoption by the mutual company’s board of directors, the plan shall be submitted to the Commissioner for review and approval. The Commissioner shall approve the plan upon finding that:

- (1) The provisions of this section have been complied with;
- (2) The plan will not prejudice the interests of the members; and
- (3) The plan’s method of allocating subscription rights is fair and equitable.

(a-1) The Commissioner, in his discretion, may order that a hearing on the

plan be held, which hearing shall be conducted in accordance with the contested case procedures set forth in § 2-509.

(a-2) A decision or order of the Commissioner, after a hearing conducted in accordance with the contested case procedures as set forth in subsection (a-1) of this section, may be reviewed as provided in § 2-510.

(b) Prior to the members' approval of the plan, a mutual company seeking the Commissioner's approval of a plan shall file the following documents with the Commissioner for review and approval:

(1) The plan of conversion, including the independent evaluation of pro forma market value required by § 31-906(f);

(2) The form of notice required by § 31-904(b) for eligible members of the meeting to vote on the plan;

(3) Any proxies to be solicited from eligible members pursuant to § 31-904(c);

(4) The form of notice required by § 31-910(a) for persons whose policies are issued after adoption of the plan but before its effective date; and

(5) The proposed articles of incorporation and bylaws of the converted stock company. Once filed, these documents shall be approved or disapproved by the Commissioner within a reasonable time.

(c) After the members have approved the plan, the converted stock company shall file the following documents with the Commissioner:

(1) The minutes of the meeting of the members at which the plan was voted upon; and

(2) The revised articles of incorporation and bylaws of the converted stock company.

(d) The Commissioner may retain, at the mutual company's expense, any qualified expert not otherwise a part of the Commissioner's staff to assist in reviewing the plan and the independent evaluation of the pro forma market value which is required by § 31-906(i).

(May 24, 1996, D.C. Law 11-126, § 4, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(c), 45 DCR 745; Apr. 3, 2001, D.C. Law 13-214, § 2(b), 47 DCR 9580; Oct. 19, 2002, D.C. Law 14-213, § 19, 49 DCR 8140.)

Section references. — This section is referenced in § 31-1371.05.

Prior Codifications. — 1981 Ed., § 35-4203.

Effect of amendments. — D.C. Law 13-214 inserted subsecs. (a-1) and (a-2).

D.C. Law 14-213, in subsec. (a-2), validated a previously made technical correction.

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — For D.C. Law 13-214, see notes following § 31-902.

Legislative history of Law 14-213. — Law 14-213, the "Technical Amendments Act of 2002", was introduced in Council and assigned Bill No. 14-671, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 2002, and July 2, 2002, respectively. Signed by the Mayor on July 26, 2002, it was assigned Act No. 14-459 and transmitted to both Houses of Congress for its review. D.C. Law 14-213 became effective on October 19, 2002.

§ 31-904. Approval of the plan by the members.

(a) All eligible members shall be given notice of and an opportunity to vote upon the plan.

(b) All eligible members shall be given notice of the members' meeting to vote upon the plan. A copy of the plan or a summary of the plan shall accompany the notice. The notice shall be mailed to each member's last known address, as shown on the mutual company's records, within 45 days of the Commissioner's approval of the plan. The meeting to vote upon the plan shall not be set for a date less than 10 days and no more than 60 days after the date when the notice of the meeting is mailed by the mutual company. If the meeting to vote upon the plan is held coincident with the mutual company's annual meeting of policyholders, only one combined notice of meeting is required.

(c) After approval by the Commissioner, the plan shall be adopted upon receiving the affirmative vote of at least a majority of the votes cast by eligible members. Members entitled to vote upon the proposed plan may vote in person or by proxy. Any proxies to be solicited from eligible members shall be filed with and approved by the Commissioner. The number of votes each eligible member may cast shall be determined by the mutual company bylaws. If the bylaws are silent, each eligible member may cast one vote.

(May 24, 1996, D.C. Law 11-126, § 5, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(d), 45 DCR 745; Apr. 3, 2001, D.C. Law 13-214, § 2(c), 47 DCR 9580.)

Section references. — This section is referenced in § 31-903.

Prior Codifications. — 1981 Ed., § 35-4204.

Effect of amendments. — D.C. Law 13-214, in subsec. (b), substituted "10 days and no more than 60 days" for "60 days".

Legislative history of Law 11-126. — For

legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — For D.C. Law 13-214, see notes following § 31-902.

§ 31-905. Adoption of revised articles of incorporation.

(a) Adoption of the revised articles of incorporation of the converted stock company is necessary to implement the plan and shall be governed by the applicable provisions of District law.

(b) For a Class 1 mutual company, the members may adopt the revised articles of incorporation at the same meeting at which the members approve the plan.

(c) For a Class 2 or 3 mutual company, the revised articles of incorporation may be adopted solely by the board of directors or trustees, as provided by District law.

(May 24, 1996, D.C. Law 11-126, § 6, 43 DCR 1551.)

Prior Codifications. — 1981 Ed., § 35-4205.

Temporary Amendment of Section. — For temporary (225 day) amendment of section,

see § 2(a) of the Insurance Demutualization Temporary Amendment Act of 1998 (D.C. Law 12-221, April 13, 1999, law notification 46 DCR 3843).

Emergency legislation. — For temporary amendment of section, see § 2(a) of the Insurance Demutualization Emergency Amendment Act of 1998 (D.C. Act 12-528, December 16, 1998, 45 DCR 476).

For temporary (90-day) amendment of section, see § 2(a) of the Insurance Demutualization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-35, March 18, 1999, 46 DCR 3004).

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

§ 31-905.01. Acquiring, offering securities issued in connection with a plan of conversion.

Prior to implementation of a plan of conversion adopted by a mutual company, no person shall knowingly acquire, or make any offer, or make any announcement of an offer, for any security issued, or to be issued, by the mutual company in connection with its plan of conversion, or for any security issued by any other company authorized as an alternative for purposes of effecting the conversion pursuant to § 31-906(e), except in compliance with the maximum purchase limitations imposed by § 31-906(l) or the terms of the plan of conversion as approved by the Commissioner.

(May 24, 1996, D.C. Law 11-126, § 6a, 43 DCR 1551, as added July 17, 1999, D.C. Law 13-13, § 2(a), 46 DCR 4428.)

Legislative history of Law 13-13. — Law 13-13, the “Insurance Demutualization Amendment Act of 1999,” was introduced in Council and assigned Bill No. 13-38, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings

on March 2, 1999, and April 13, 1999, respectively. Signed by the Mayor on April 27, 1999, it was assigned Act No. 13-58 and transmitted to both Houses of Congress for its review. D.C. Law 13-13 became effective on July 17, 1999.

§ 31-906. Required provisions in a plan of conversion.

(a) The plan shall set forth the reasons for the proposed conversion.

(b) The plan shall provide that all policies in force on the effective date of conversion shall continue to remain in force under the terms of those policies, except that any voting rights of the policyholders provided for under the policies or under District law and any contingent liability policy provisions of the type described in District law shall be extinguished on the effective date of the conversion.

(c) The plan shall further provide that the holders of participating policies in effect on the date of conversion shall continue to have the right to receive dividends as provided in the participating policies, if any.

(d) Except mutual company’s life policies, guaranteed reviewable accident and health policies, and noncancelable accident and health policies, the converted stock company may issue the insured a nonparticipating policy as a substitute for the participating policy upon the renewal date of a participating policy.

(e)(1) The plan shall provide that each eligible member is to receive, without payment, nontransferable subscription rights to purchase a portion of the capital stock of the converted stock company. As an alternative to subscription rights in the converted stock company, the plan may provide that each eligible

member is to receive, without payment, nontransferable subscription rights to purchase a portion of the capital stock of a corporation organized and owned by the mutual company for the purpose of purchasing and holding all the stock of the converted stock company, or a stock insurance company owned by the mutual company into which the mutual company will be merged.

(2) In the case of the conversion of an existing mutual insurance holding company to a stock company, if shares of common stock in an intermediate stock holding company have previously been issued to persons other than the mutual holding company, the plan of conversion shall provide that such common stockholders shall receive an ownership interest in the converted mutual insurance holding company equal to the percentage ownership in the intermediate stock holding company immediately before the conversion, with the subscription rights to the balance of the shares to be distributed as provided under paragraph (1) of this subsection.

(f) The subscription rights shall be allocated in whole shares among the eligible members using a fair and equitable formula. This formula may, but need not, take into account how the different classes of policies of the eligible members contributed to the surplus of the mutual company.

(g) The plan shall provide a fair and equitable means for the allocation of shares of capital stock in the event of an oversubscription to shares by eligible members exercising subscription rights received pursuant to subsection (e) of this section.

(h) The plan shall provide that any shares of capital stock not subscribed to by eligible members exercising subscription rights received under subsections (e) and (f) of this section shall be sold in a public offering through an underwriter. If the shares of capital stock not subscribed to by eligible members is so small in number as to not warrant the expense of a public offering, the plan of conversion may provide for the purchase of the unsubscribed shares by a private placement or other alternative method approved by the Commissioner that is fair and equitable to the eligible members.

(i) The plan shall set the total price of the capital stock equal to the estimated pro forma market value of the converted stock company based upon an independent evaluation by a qualified person. The pro forma market value may be the value or range of values that is estimated to be necessary to attract full subscription for shares as indicated by the independent evaluation.

(j) The plan shall set the purchase price of each share of capital stock equal to any reasonable amount that will not inhibit the purchase of shares by members. The purchase price of each share shall be uniform for all purchasers.

(k) The plan shall provide for a closed block of business for participating life policies of a Class 1 mutual company.

(1) The plan shall provide that a Class 1 mutual company's participating life policies in force on the effective date of the conversion shall be operated by the converted stock company for dividend purposes as a closed block of participating business, except that any or all classes of group participating policies may be excluded from the closed block.

(2) The plan shall establish one or more segregated accounts for the benefit of the closed block of business and shall allocate to those segregated

accounts enough assets of the mutual company so that the assets together with the revenue from the closed block of business are sufficient to support the closed block, including, but not limited to, the payment of claims, expenses, taxes, and any dividends that are provided for under the terms of the participating policies, with appropriate adjustments in the dividends for experience changes. The plan shall be accompanied by an opinion of a qualified actuary or an appointed actuary who meets the standards set forth in the insurance laws or regulations for the submission or actuarial opinions as to the adequacy of reserves or assets. The opinion shall relate to the adequacy of the assets allocated to the segregated accounts in support of the closed block of business. The actuarial opinion shall be based on a method of analysis deemed appropriate for those purposes by the Actuarial Standards Board.

(3) The amount of assets allocated to the segregated accounts of the closed block shall be based upon the mutual company's last annual statement that is updated to the effective date of the conversion.

(4) The converted stock company shall keep a separate accounting for the closed block and shall make and include in the annual statement to be filed with the Commissioner each year a separate statement showing the gains, losses, and expenses properly attributable to the closed block.

(5) Periodically, upon the Commissioner's approval, those assets allocated to the closed block, as provided in paragraph (2) of this subsection, that are in excess of the amount of assets necessary to support the remaining policies in the closed block shall revert to the benefit of the converted stock company.

(6) The Commissioner may waive the requirement for the establishment of a closed block of business if the Commissioner deems it to be in the best interest of the participating policyholders of the mutual insurer to do so.

(l) The plan shall provide that any one person or group of persons acting in concert may not acquire, through public offering or subscription rights, more than 5% of the capital stock of the converted stock company for a period of 5 years from the effective date of the plan except with the approval of the Commissioner. This limitation does not apply to any entity that is to purchase 100% of the capital stock of the converted company as part of the plan of conversion approved by the Commissioner or to a purchase of stock by a tax-qualified employee benefit plan pursuant to subscription rights granted to that plan as authorized under § 31-907(b) and to a purchase of unsubscribed stock pursuant to subsection (h) of this section.

(May 24, 1996, D.C. Law 11-126, § 7, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(e), 45 DCR 745; Apr. 3, 2001, D.C. Law 13-214, § 2(d), 47 DCR 9580.)

Section references. — This section is referenced in § 31-902, § 31-903, § 31-905.01, § 31-907, and § 31-913.

Prior Codifications. — 1981 Ed., § 35-4206.

Effect of amendments. — D.C. Law 13-214 designated the existing text of subsec. (e) as par. (1) and added par. (2); and rewrote subsecs. (i) and (j) which had read:

"(i) The plan shall set the total price of the capital stock equal to the estimated pro forma market value of the converted stock company based upon an independent evaluation by a qualified person. The pro forma market value may be the value that is estimated to be necessary to attract full subscription for shares as indicated by the independent evaluation.

"(j) The plan shall set the purchase price of

each share of capital stock equal to any reasonable amount that will not inhibit the purchase of shares by members. The purchase price of each share shall be uniform for all purchasers, except the price may be modified by the Commissioner by reason of his or her consideration of a plan for the purchase of unsubscribed stock pursuant to subsection (h) of this section."

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — For D.C. Law 13-214, see notes following § 31-902.

§ 31-907. Optional provisions in a plan of conversion.

(a) The following provisions may be included in the plan:

(1) The plan may provide that the directors and officers of the mutual company shall receive, without payment, nontransferable subscription rights to purchase capital stock of the converted stock company or the stock of another corporation that is participating in the conversion plan as provided in § 31-906(e). Those subscription rights shall be allocated among the directors and officers by a fair and equitable formula.

(2) The total number of shares that may be purchased under subsection (a)(1) of this section may not exceed 85% of the total number of shares to be issued in the case of a mutual company with total assets of less than \$50 million, or 25% of the total shares to be issued in the case of a mutual company with total assets or more than \$500 million. For mutual companies with total assets between \$50 million and \$500 million, the total number of shares that may be purchased shall be interpolated.

(3) Stock purchased by a director or officer under subsection (a)(1) of this section shall not be sold within one year following the effective date of the conversion.

(4) The plan may also provide that a director or officer or person acting in concert with a director or officer of the mutual company may not acquire any capital stock of the converted stock company for 3 years after the effective date of the plan, except through a broker or dealer, without the permission of the Commissioner. That provision may not apply to prohibit the directors and officers from purchasing stock through subscription rights received in the plan under subsection (a)(1) of this section.

(b) The plan may allocate to a tax-qualified employee benefit plan nontransferable subscription rights to purchase up to 10% of the capital stock of the converted stock company, or the stock of another corporation that is participating in the conversion plan as provided in § 31-906(e) and (1). The employee benefit plan shall be entitled to exercise its subscription rights regardless of the amount of shares purchased by other persons.

(May 24, 1996, D.C. Law 11-126, § 8, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(f), 45 DCR 745; July 17, 1999, D.C. Law 13-13, § 2(b), 46 DCR 4428.)

Section references. — This section is referenced in § 31-906.

Prior Codifications. — 1981 Ed., § 35-4207.

Effect of amendments. — D.C. Law 13-13

in subsecs. (a) and (b) modified the statutory referents.

Temporary Amendment of Section. — For temporary (90-day) amendment of section, see § 2(b) of the Insurance Demutualization

Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-35, March 18, 1999, 46 DCR 3004).

Emergency legislation. — For temporary amendment of section, see § 2(b) of the Insurance Demutualization Emergency Amendment Act of 1998 (D.C. Act 12-528, December 16, 1998, 45 DCR 476).

For temporary (90-day) amendment of section, see § 2(b) of the Insurance

Demutualization Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-35, March 18, 1999, 46 DCR 3004).

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

§ 31-908. Alternative plan of conversion.

The board of directors may adopt a plan of conversion that does not rely in whole or in part upon the issuance to members of nontransferable subscription rights to purchase stock of the converted stock company if the Commissioner finds that the plan does not prejudice the interest of the members, is fair and equitable, and is based upon an independent appraisal of the market value of the mutual company by a qualified person and a fair and equitable allocation of any consideration to be given eligible members. The Commissioner may retain, at the mutual company's expense, any qualified expert not otherwise a part of the Commissioner's staff to assist in reviewing whether the plan may be approved by the Commissioner.

(May 24, 1996, D.C. Law 11-126, § 9, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(g), 45 DCR 745.)

Prior Codifications. — 1981 Ed., § 35-4208.

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

§ 31-909. Effective date of the plan.

A plan shall become effective when the Commissioner has approved the plan.

(May 24, 1996, D.C. Law 11-126, § 10, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(h), 45 DCR 745; Apr. 3, 2001, D.C. Law 13-214, § 2(e), 47 DCR 9580.)

Prior Codifications. — 1981 Ed., § 35-4209.

Effect of amendments. — D.C. Law 13-214 rewrote the section which had read:

"A plan shall become effective when the Commissioner has approved the plan, the members have approved the plan, and the revised articles of incorporation have been filed."

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — For D.C. Law 13-214, see notes following § 31-902.

§ 31-910. Rights of members whose policies are issued after adoption of the plan and before its effective date.

(a) All members whose policies are issued after the proposed plan has been

adopted by the board of directors and before the effective date of the plan shall be given written notice of the plan of conversion. The notice shall specify the member's right to terminate that policy as provided in subsection (b) of this section within 30 days after the effective date of the plan. A copy of the plan or a summary of the plan shall accompany the notice. The form of the notice shall be filed with and approved by the Commissioner.

(b) Any member entitled to receive the notice described in subsection (a) of this section shall be entitled to terminate his or her policy and receive a pro rata refund of any amounts paid for the policy or contract within 15 days after receipt of the notice.

(May 24, 1996, D.C. Law 11-126, § 11, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(i), 45 DCR 745; Apr. 3, 2001, D.C. Law 13-214, § 2(f), 47 DCR 9580.)

Section references. — This section is referenced in § 31-901 and § 31-903.

Prior Codifications. — 1981 Ed., § 35-4210.

Effect of amendments. — D.C. Law 13-214, in subsec. (a), substituted "terminate" for "rescind", and substituted "30" for "45"; and rewrote subsec. (b) which had read:

"(b) Any member entitled to receive the notice described in subsection (a) of this section shall be entitled to rescind his or her policy and

receive a full refund of any amounts paid for the policy or contract within 10 days after the receipt of the notice."

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — For D.C. Law 13-214, see notes following § 31-902.

§ 31-911. Corporate existence.

(a) Upon the conversion of a mutual company to a converted stock company according to provisions of this chapter, the corporate existence of the mutual company shall be continued in the converted stock company. All the rights, franchises, and interest of the mutual company in and to every type of property, real, personal, and mixed, and things in action thereunto belonging, is deemed transferred to and vested in the converted stock company without any deed or transfer. Simultaneously, the converted stock company is deemed to have assumed all the obligations and liabilities of the mutual company.

(b) The directors and officers of the mutual company, unless otherwise specified in the plan of conversion, shall serve as directors and officers of the converted stock company until new directors and officers of the converted stock company are duly elected pursuant to the articles of incorporation and bylaws of the converted stock company.

(May 24, 1996, D.C. Law 11-126, § 12, 43 DCR 1551.)

Prior Codifications. — 1981 Ed., § 35-4211.

Legislative history of Law 11-126. — For

legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

§ 31-912. Conflict of interest.

No director, officer, agent, or employee of the mutual company, or any other person, shall receive any fee, commission, or other valuable consideration,

other than his or her usual regular salary and compensation, for in any manner aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the Commissioner. This provision does not prohibit the payment of reasonable fees and compensation to attorneys, accountants, and actuaries for services performed in the independent practice of their professions, even if the attorney, accountant, or actuary is also a director of the mutual company.

(May 24, 1996, D.C. Law 11-126, § 13, 43 DCR 1551; Mar. 24, 1998, D.C. Law 12-81, § 43(j), 45 DCR 745.)

Prior Codifications. — 1981 Ed., § 35-4212.

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 12-81. — For legislative history of D.C. Law 12-81, see Historical and Statutory Notes following § 31-901.

§ 31-913. Costs and expenses.

All costs and expenses connected with a plan of conversion shall be paid for or reimbursed by the mutual company or the converted stock company from the proceeds of the offering; provided, that if the plan provides either for a holding company to acquire the stock of the converted stock company or for the merger of the mutual company into a stock insurance company as provided in § 31-906(h), the acquiring holding company or the stock insurance company shall pay for or reimburse all the costs and expenses connected with the plan.

(May 24, 1996, D.C. Law 11-126, § 14, 43 DCR 1551; Apr. 3, 2001, D.C. Law 13-214, § 2(g), 47 DCR 9580.)

Prior Codifications. — 1981 Ed., § 35-4213.

Effect of amendments. — D.C. Law 13-214 rewrote the section which had read:

“All the costs and expenses connected with a plan of conversion shall be paid for or reimbursed by the mutual company or the converted stock company except where the plan provides either for a holding company to acquire the stock of the converted stock company or for the merger of the mutual company into a stock

insurance company as provided in § 31-906(e). In those cases, the acquiring holding company or the stock insurance company shall pay for or reimburse all the costs and expenses connected with the plan.”

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 13-214. — For D.C. Law 13-214, see notes following § 31-902.

§ 31-914. Failure to give notice.

If the mutual company complies substantially and in good faith with the notice requirements of this chapter, the mutual company's failure to give any member or members any required notice does not impair the validity of any action taken under this chapter.

(May 24, 1996, D.C. Law 11-126, § 15, 43 DCR 1551.)

Prior Codifications. — 1981 Ed., § 35-4214.

Legislative history of Law 11-126. — For legislative history of D.C. Law 11-126, see His-

torical and Statutory Notes following § 31-901.

§ 31-915. Limitation of actions.

Any action challenging the validity of or arising out of acts taken or proposed to be taken under this chapter shall be commenced within 30 days after the effective date of the plan.

(May 24, 1996, D.C. Law 11-126, § 16, 43 DCR 1551.)

Prior Codifications. — 1981 Ed., § 35-4215. legislative history of D.C. Law 11-126, see Historical and Statutory Notes following § 31-901.

Legislative history of Law 11-126. — For



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